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Concepts of Normativity

Kant or Hegel?

Edited by
Christian Krijnen

Concepts of Normativity: Kant or Hegel?

Critical Studies in German Idealism

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List of Contributors

Giulia Battistoni

is currently a PhD student in Human Sciences at the University of Verona and in Philosophy at the Friedrich-Schiller-Universität Jena (double PhD program). Recent publication: *Die Möglichkeit des Wissens als Grundlage der Zurechnung: Die Lehre der Imputation bei K.L. Michelet und K. Larenz auf der Grundlage von Hegels Handlungstheorie*, in: *Rechtsphilosophie. Zeitschrift für Grundlagen des Rechts*, 4/2017.

Martin Bunte

(PhD), Westfälische Wilhelms-Universität Münster. Fields of research: Kant, Neo-Kantianism, German Idealism, Metaphysics, Philosophy of Science, Political Philosophy, Intercultural Philosophy. Major publications: *Erkenntnis und Funktion. Zur Vollständigkeit der Urteilstafel und Einheit des kantischen Systems* (2016). *Transzendentaler Operationalismus und kritische Methode. Zum Problem der Letztbegründung bei Kant und Dingler* (2016). *Sinnliche Mannigfaltigkeit und Gewissheit. Zum Problem der Beziehungslosen Vielheit bei Hegel* (2018)

Jiří Chotaš

(PhD), Institute of Philosophy, the Czech Academy of Sciences. Fields of research: Political Philosophy; Philosophy of Law (human rights, natural law, international law); Theory of Knowledge, Metaphysics; Theory of Higher Education. Recent publication: (ed. with M. Bondeli and K. Vieweg), *Krankheit des Zeitalters oder heilsame Provokation? Skeptizismus in der nachkantischen Philosophie* (2016).

Paul Cobben

is Professor Emeritus at Tilburg University. He now teaches at the University of Amsterdam and is visiting researcher at the Vrije Universiteit Amsterdam. His publications focus mainly on practical philosophy combining a systematic and historical approach. Among his books are *Value in Capitalist Society. Rethinking Marx's Criticism of Capitalism*, Boston/Leiden: Brill (2015), *The Paradigm of Recognition: Freedom as Overcoming the Fear of Death*, Boston/Leiden: Brill (2012), *The Nature of the Self. Recognition in the Form of Right and Morality*. Berlin: De Gruyter (2009).

Max Gottschlich

Ass. Prof. at the Department of Practical Philosophy/Ethics, Catholic Private University Linz. Areas of research: the relevance of logic for the human

self-interpretation, Philosophy of Language, foundations of Practical Philosophy, Aesthetics / Philosophy of Art. Recent publications: (ed.). *Die drei Revolutionen der Denkart. Systematische Beiträge zum Denken von Bruno Liebrucks*, Freiburg/München 2013. Das Problem von Sprache und Weltansicht bei Hamann, Herder und Humboldt. *Allgemeine Zeitschrift für Philosophie* 42.3 2017. The Necessity and the Limits of Kant's Transcendental Logic, with Reference to Nietzsche and Hegel. *The Review of Metaphysics* 4/2015.

Christian Hofmann

is scientific assistant at the Academy for Civic Education Tutzing and online tutor for Practical Philosophy at the FernUniversität Hagen. His main fields of research are Hegel, Political Philosophy, and Social Philosophy. In 2014 he published his dissertation *Dialektik der Moderne*.

Jean-François Kervégan

is Full Professor of Philosophy at the University Paris 1 Panthéon-Sorbonne and Honorary Fellow of the Institut Universitaire de France. His research areas are the philosophy of German Idealism, contemporary Philosophy of Law, and the Theory of Normativity. Recent books as author: *The Actual and the Rational*, Chicago 2018; *Variazioni Kelseniane*, Napoli 2016; *La raison des normes. Essai sur Kant*, Paris 2015; *Que faire de Carl Schmitt ?*, Paris 2011. Recent books as editor or co-editor: *Dialogues avec Jürgen Habermas*, Paris 2018; *Norme et violence*, Hildesheim 2015; *Manuel de l'idéalisme allemand*, Paris 2015; *Hegel au présent. Une relève de la métaphysique*, Paris 2012.

Arthur Kok

studied philosophy in Tilburg and Berlin. In 2013, his dissertation was published as *Kant, Hegel und die Frage der Metaphysik*. His main areas of research are Metaphysics, Philosophy of Religion and Political Philosophy. Together with Thomas Oehl, he is the editor of *Objektiver und absoluter Geist nach Hegel* (Brill 2018). Other recent publications are "Jenseits des Gewissens: Der Mensch als Endzweck der Schöpfung" (2016), "The Boundaries of Hegel's Criticism of Kant's Concept of the Noumenal" (2017) and "Religion in der modernen Demokratie: Ein Vergleich zwischen Hegels offener Religion und Rawls' öffentlicher Vernunft" (2018).

Christian Krijnen

Ph.D. 2001, habilitation 2006, is Associate Professor of Philosophy at the Vrije Universiteit Amsterdam. His research focuses on Modern Philosophy, Epistemology, Philosophy of Science, Practical Philosophy, Philosophy of Culture, Social Philosophy, Philosophy of Economics and Management & Organization.

In his numerous monographs and articles, including *Nachmetaphysischer Sinn* (2001), *Philosophie als System* (2008), *Recognition—German Idealism as an Ongoing Challenge* (2014), *The Very Idea of Organization* (2015), and *Metaphysics of Freedom?* (2018), Kant, Hegel, neo-Kantianism and contemporary transcendental philosophy play a major role.

Tereza Matějčková

is assistant professor at the Faculty of Arts, Charles University in Prague. Her area of specialization is German Idealism, modern Continental Philosophy, and Philosophy of Religion. Recent publication: the monograph *Gibt es eine Welt in Hegels Phänomenologie des Geistes* (2018).

Christian Schmidt

is Privatdozent at the Institute for Philosophy of the University Leipzig. His research interests are Social Philosophy, Practical Philosophy including the Philosophy of History and Law. He has published following monographs: *Karl Marx zur Einführung* (2018), *Können wir der Geschichte entkommen?* (2013), *Individualität und Eigentum* (2006).

Alberto L. Siani

is a senior researcher at the University of Pisa. His research focusses on Aesthetics, German Idealism, and Political Philosophy. Recent publications: *Women Philosophers on Autonomy. Historical and Contemporary Perspectives* (New York-London 2018, with S. Berges). *Morte dell'arte, libertà del soggetto. Attualità di Hegel* (Pisa 2017), *L'estetica di Hegel* (Bologna 2014, with M. Farina).

Klaus Vieweg

is professor of philosophy at the University of Jena. Main areas of research: German Idealism, in particular Hegel; scepticism. Visiting professorship and fellowship: Pisa, Seattle, Prag, Tokyo, Kyoto, Shanghai, Rom. Recent monographs: *Das Denken der Freiheit. Hegels Grundlinien der Philosophie des Rechts* (München 2012); *Hegels Phänomenologie des Geistes* Berlin 2008 (Hg. K. Vieweg/W. Welsch); *Hegel. 200 Jahre Wissenschaft der Logik* Hamburg 2014 (Hg. K. Vieweg et al.).

Benno Zabel

Professor für Strafrecht und Rechtsphilosophie at Friedrich Wilhelms-Universität Bonn. He studied legal science and general and comparative literature in Berlin and Leipzig. His numerous publications in the field of political and legal philosophy and in penal theory include "Die Politik der subjektiven Rechte" 2017 (ed. together with C. Schmidt) and "Die Ordnung des Strafrechts" 2017.

Introduction

Christian Krijnen

Kant's conception of morality has shown to be extremely thorough and influential until today. Hegel, however, has criticized Kant for offering merely a "formal" model of normativity that, by consequence, cannot sufficiently comprehend human action as free action. The normative content of the embeddedness of the acting subject has to be taken into account, as Hegel argues in his doctrine of *Sittlichkeit*, which has shown to be very thorough and influential too. Despite the fact that the issue of normativity in Kant and Hegel has been often addressed by philosophers, it remains contested until today. Moreover, the discussion, unfortunately, is pressed forward not at last by the many misunderstandings that accompany it. The discussion is a paradigmatic one concerning the persisting overarching question "Kant or Hegel?." A broadly held consensus between Kantians and Hegelians is not in sight; on the contrary, the state of affairs is muddled. Nevertheless, both "heroes of reason" are concerned with the same subject matter: philosophy. Fortunately, developments in recent scholarship enable a better understanding of normativity in Kant and Hegel. They seem to lift the discussion to a new level of appropriation.

Against this background, I organized a conference on *Concepts of Normativity, Kant or Hegel?* It took place from 6 to 8 December 2017 at the Vrije Universiteit Amsterdam. Furthermore, this conference was the constituting conference of the recently founded International Network *Hegel's Relevance* / Internationales Netzwerk *Hegels Relevanz*.¹ The Network brings together scholars that work on Hegel from a systematic perspective and with a methodology indebted to the philosophy of German idealism. The Network aims to organize yearly conferences both for junior and senior researchers. This collection of essays presents the results of the lectures and discussions during the first conference. As it concerns only a selection of the presented papers, the arrangement roughly follows the thematical setting of the program.

Christian Hofmann emphasizes that Hegel's model of normativity builds on that of Kant, pretending to overcome its limitations and even expanding on the whole of reality. Without Kant's conceptions of practical reason and freedom, Hegel's philosophy would be inconceivable, but Hegel does not content

¹ See <https://clue.vu.nl/en/activities/hegel-network/index.aspx>.

himself with a dualist position, as typical for Kant. He aims for a monistic position that makes it possible to conceive of the whole of reality under the perspective of freedom. Hegel conceives of freedom especially as “being at home with oneself in the other.” Since all contents of consciousness are mediated by an undivided subjectivity, a form of thought is stipulated, which refers to the totality of these contents and simultaneously to itself. With this, thought has to fulfill subjectivity’s inherent normative claim and actualize the structure of free subjectivity for itself. Justifying and accomplishing this conception is the task of Hegel’s logic. Here, the concept itself shows to be “that which is free.” Therefore, the whole is not “the untrue” (Adorno) that suppresses the individual, but it is the differentiated unity in which the universal is mediated with the individual, making any concrete actualization of the individual possible. For Hofmann, this indicates a critical dimension of Hegel’s philosophy in general: it requires the development of forms of life and thinking, in which subjects can be at home with themselves. This requirement and task to make freedom even more concrete is as relevant today as it was in Hegel’s own time.

Paul Cobben takes Hegel’s *Phenomenology of Spirit* as the perspective for discussing the relationship between Kant and Hegel. He holds that the Consciousness-chapter in the *Phenomenology of Spirit* can be interpreted as Hegel’s critical reception of Kant’s Copernican turn. Here, Hegel replaces Kant’s transcendental subject by his concept of pure self-consciousness, in which the form of life is posited at itself as pure form. In the self-consciousness-chapter, all forms of consciousness are repeated in a self-conscious version. Cobben argues that Hegel’s Lord/Bondsman relation can be considered to be the practical version of the Copernican turn: in his labor, the bondsman practically transforms nature and makes it a “second nature” in which the human law is expressed. This not only explicates that the law form that the natural scientist imposes on nature is an abstraction from the law form that is practically imposed on nature by the bondsman but also that the form of life that is posited at itself as pure form equals the structure of freedom: the human law expresses good life, human freedom in a specific historical form. In that sense the natural law presupposes the law of freedom, the moral law.

Arthur Kok argues that Hegel’s concept of religion in the *Phenomenology of Spirit* can be read as an attempt to overcome Kant’s dualism of theoretical and practical reason. Regarding the project of *Phenomenology* as a whole as Hegel’s attempt to identify and criticize the precise nature of Kant’s dualism, particularly his account of revealed religion presents a possible reconciliation. Kok proposes to read the Morality chapter as a prelude to the Religion chapter, in which Hegel presents a systematic account of religious consciousness.

Kok focusses on the third subchapter about *revealed religion* and aims to show that Hegel reflects the (Kantian) position of morality in this chapter. Kok's most important conclusion is that, following Hegel's phenomenological account of revealed religion, the God-man is not a positive realization of an otherwise transcendent being but depicts the structure of self-negation allowing consciousness to become self-consciousness.

For *Martin Bunte*, Hegel's criticism of Kant's formalism is valid. Thus the usual defense strategies, which rely on the separation between the formal justification of the categorical imperative and its material indeterminacy, in the form of the post-festum-argument, fail. By contrast, Bunte attempts to illuminate the material aspect of the moral law in Kant. This could be discerned in the experience of the validity of one's own moral basic principles, insofar as these coincide with the purpose (*Zweck*) of humankind or human beings. The consideration of what this ultimate purpose might consist in leads Bunte to the idea of a freedom realized on all sides, the highest good, according to which happiness depends solely on worthiness of happiness. With this, however, the problem of the reciprocal and therefore circular justification of an ethics that is envisaged in purely formal terms arises. Kant himself counters this problem by introducing two unconditional material ends, without which a categorical imperative in the form of the moral law would not be possible. For Bunte, even this strategy cannot solve the problem of the lack of value reality due to the externality of form and content. Yet this aporetic outcome overlooks what Bunte holds to be the essential moment in the grounding of ethics: the demand that morality should be at all, a behest that directs reason not to the acting subjects but to itself. Reason is both determining and determined in relation to itself. Therefore, Bunte argues, its determinacy is not the result of an external fixing of ends, independent of reason, but reason itself is always the ground of its affection. As the will necessarily has to possess the form of finite reason, Bunte thinks the criticism of formalism can be overcome within a Kantian setting.

Max Gottschlich takes a closer look at the logical presuppositions of normativity. His thesis is this: Speaking of normativity is only then not logically meaningless when the logical form is not interpreted as an immovable essentiality applied to apparently given contents but instead is conceived of as a self-referential and self-fulfilling form. Gottschlich demonstrates this in two steps. First, he brings out some of the implications of speaking of normativity and scrutinizes them from the standpoints of Kant and Hegel. In a second step, he considers the concept of purpose, specifically in the context of production (*poiesis*), in order to show that this concept goes beyond the dualism of being and ought, presupposed by the common talk of normativity. The relationship

between Kant and Hegel for Gottschlich is, on the whole, not so much a matter of alternatives as one of progress in revealing and grounding presuppositions.

Klaus Vieweg discusses the logical foundation of Hegel's doctrine of ethical life. He stresses that Hegel's elaborations on practical philosophy needs to be understood from its logical spirit. For him, this way of justifying philosophical thoughts makes up the *nervus probandi* of the whole conceptual development. First, the chapter on Morality in Hegel's *Philosophy of Right* is based upon the logical forms of judgments. Secondly, Morality turns out to be a one-sided account. Its deficiency primarily stems from the logical form of judgment, as discussed in the *Logic*. Vieweg shows that it is necessary to overcome the logic of judgment towards a logic of conclusion and with that to the contextuality of free action.

Christian Krijnen elaborates further on this issue. Although the formula "Hegel's practical philosophy" is on the lips of many scholars, strictly speaking, the philosophical system outlined by the mature Hegel in his *Encyclopedia* is not practical philosophy. Hegel does not address the practical from its own perspective but from the perspective of (self-knowledge of) the idea. What, then, can practical philosophy be within the context of Hegel's mature philosophy? Kant's project of practical philosophy certainly is too important to dismiss. Kant's focus on the moral validity determinacy of the practical leads to a duty-theoretical elaboration of this validity determinacy. In his foundational works, Kant discusses duty with regard to its form and in his *Metaphysics of Morals* with regard to its matter. Speculative practical philosophy concerns in particular the significance of Kant's metaphysics of morals. Locating a Kantian metaphysics of morals in Hegel's system of philosophy boils down to finding a point of thematic contact in the philosophy of spirit. The relevance of a Kantian metaphysical doctrine of duties lies in its function to make the subject aware of the formal moments of its duties. As the function of making normative content aware is a concern of *Bildung*, within Hegel's system of philosophy, the project of a metaphysics of morals should be exposed in the context of his elaborations on *Bildung*. Within the realm of *Sittlichkeit*, the transition from the system of needs to the administration of justice turns out to be the proper point of connection for addressing the issue of a Kantian metaphysics of morals.

Giulia Battistoni aims to show that the so called "right of objectivity," introduced by Hegel in the Morality chapter of his *Elements of the Philosophy of Right*, plays an essential role in Hegel's theory of imputation. Given the rights of the subjective will to accept responsibility only for what was present in its purpose, in its intention, according to the subject's knowledge of the value of the action, objectivity itself has its own rights according to Hegel: with its

normative function it manages to balance the rights of the subjective will in the evaluation of an action. First, Battistoni discusses to what extent Kant's formalism is, according to Hegel, problematic when it comes to evaluating an action. Kant's moral philosophy stresses the autonomy of the subject, namely her capability of self-determination according to the faculty of reason. On the one hand, Hegel praises this point of view; on the other hand, he thinks that a mere deontological perspective is not sufficient to evaluate an action and to ascribe responsibility. This leads to the significant role of the right of objectivity. In the second part of her paper, Battistoni considers the concept of "objectivity" and its different meanings in Hegel's *Philosophy of Right*, while the last part analyzes the right of objectivity in order to show its normative function in Hegel's theory of imputation.

Based on insights of Foucault and Althusser that we find a peculiar mixture of empiricism and transcendentalism in German Idealism, *Christian Schmidt* analyzes the eminent role of spontaneity in Kant's critical philosophy. For Kant, spontaneity is a not detachable property of every rational being. It is important for understanding, reason, and the capacity to act morally. However, Kant's equation of spontaneity and freedom is unable to cope with the social obstacles for actual free acts. Schmidt holds that Hegel's philosophy of freedom is more intricate. Hegel shares the Kantian position that spontaneity is a not detachable property of rational beings. Yet, he augments this view by the actualization of freedom in the state. Therefore, freedom becomes a historical concept in which freedom is the prerequisite for freedom. Since freedom is an idea in Hegel, Schmidt aims to show how Hegel conceptualizes the self-determination of freedom in history through the spontaneous acts of historical agents. It is only the insight in the inner truth of history that allows—according to Schmidt's interpretation of Hegel—to pursue the actualization of freedom consciously. Finally, Schmidt argues that Hegel's idea of freedom is best understood as the reconciliation of social institutions and the spontaneity of social agent's. He defends this view against the criticism that such a reading of Hegel's idea of freedom is rather Kantian by discussing the role of abstraction and concreteness in Hegel's notion of the idea.

For *Jiří Chotaš*, both Kant and Hegel are convinced that the state is essential for human coexistence and cannot be replaced by another institution. Their understanding and justification of a state, however, differ. Kant justifies the state using a theory of social contract, according to which people naturally live in a state of nature and must conclude an original contract to reach a civil condition where laws can apply. A theory of social contract functions as a regulative idea which explains the origins of state and political authority. Kant claims that all existing states should be reformed according to his theory

of social contract (become republics). Yet, according to Chotaš, he does not consider possible pitfalls of his proposals (e.g. in human mentality). Hegel, as Chotaš shows, rejects Kant's justification of the state by a theory of social contract claiming that it does not capture the state's ethical foundation. Instead, he offers a speculative definition of state, where the state is distinguished from the family and a civil society. While the state shares some features with these institutions, Chotaš argues that for Hegel it is a separate institution superior to both family and civil society. Hegel views the state as an ethical community which should unify the customs of people and the self-consciousness of individuals. Political authority emerges only with state institutions (legislative power, executive power, power of the prince). Hegel acknowledges political authority but does not offer its justification. Individuals are then obliged to act only in ways prescribed by the political authority and trust that their interests are taken into consideration

Benno Zabel links Hegel with the idea of republicanism and a republican penal philosophy. Although this seems not self-evident, Hegel's own formulations as well as the interpretation and reception of his thought seem to speak a different language. For Zabel, the numerous interpretations of Hegel's thought arise not merely, however, from the method he favors in his reconstruction of the state and from the criminal and penal theory embedded in it. They also arise from the unique link between logic and "*Realphilosophie*." Hegel's project of a speculatively grounded analysis of legal forms favors a form of justification that is often misunderstood and judged to conflict with freedom. In fact, this project must be grasped as a logically grounded meta-critique of accepted practices of action and judgment. Right and law, state and society are multi-dimensional concepts and their functions must be deduced from the concrete constitution of a body politic. Hegel's penal philosophy aims at making clear that the response to a violation of freedom—a crime is nothing other than this—is to be understood against this background. Punishment presupposes not only the criminal as a social subject but also a network of legal institutions and procedures. Depending on the perspective and interests with which one considers the penal procedure, one may gain sight of the functions of coercion and retaliation, of attribution and of the courts, but also of social equilibrium. For Hegel, as Zabel shows, punishment is first and foremost a means of communication that reminds the perpetrator, just as well as society, of the indispensable project of freedom.

Tereza Matějčková addresses the Enlightenment conception of freedom as propounded by Kant and as re-interpreted by Hegel. Although for Kant the source of normativity is practical reason as embodied in the categorical imperative and good will, Hegel contends that this criterion removes the essence

of action from the world into a subjective intention. Against Kant, Hegel emphasizes that in focusing on the subjective side of action, we fail to understand that freedom is always realized in concert with others. In this sense, he emphasizes that there are social conditions that enable or disable free acting, and above all, one's freedom depends on the quantity of the freedom of others: the more there are free people, the more evolved the freedom is. As essentially plural, freedom is conditioned by an institutional framework, the "syntax of objective thought." Matějčková argues that due to this institutional dimension of freedom, the outcome of Hegel's philosophy is paradoxical. It is only as long as man is not free that he needs an explicit consciousness of freedom; once he or she finds himself or herself in a free society, i.e., in a society with institutionally secured basic freedoms, he need not maintain a vigilant sense of freedom.

Jean-François Kervégan asks if there is any Philosophy of History. Without doubt, it is a commonly accepted assumption that a philosophy of history exists. It peaked, for better or worse, with German Idealism (especially in the works of Kant and Hegel, but also in the work of the latter's heir, Marx). Kervégan challenges this assumption. First, philosophy of history existed prior to German Idealism and partly against Kant's critical rationalism or Hegel's speculative one. Then, the meaning of these two authors' "philosophy of history" is not as emphatic as it is usually perceived of. For Kant, its reach is very limited and does not belong to the hard kernel of his work (the metaphysics of nature and morals). In Hegel's system, the philosophy of history, belonging to the theory of the objective spirit, does not have the last word. Its principle, the world spirit, is itself under the jurisdiction of the absolute spirit. Paradoxically, philosophy of history's final object is the present, understood as the eternal presence-to-itself of the spirit. One may even wonder whether "philosophy of history" (as seen by its critics) ever existed.

For *Alberto L. Siani*, multiple strategies are possible while approaching the topic of the connection between Europe and freedom in Hegel's philosophy. Siani deliberately avoids to attempt a definition of the term "Europe." He prefers to keep the issue open, historically, geographically, and politically. Instead, he investigates several general conceptual features that according to Hegel constitute the shared heritage of modern Europe, even though they are actualized in a plurality of historical, geographical, and political shapes. These features are, in Siani's reading, basic but unrevisable starting, rather than concluding, points of European identity. Siani first discusses two statements where Hegel advances the idea that subjective or moral freedom, i.e., the right of the particular subject, is characteristic of modern Europe, finding its expression in individual action and imputability. Secondly, he investigates Hegel's genealogical reconstruction of this principle by contrasting the

modern European understanding of freedom and action with the substantial one of classical Greece. With the tragic dissolution of the latter at the hands of heroic subjectivity, a path is opened to the former. Thirdly, Siani elaborates on the idea that, for Hegel, the modern European understanding of freedom cannot be detached from the primacy of philosophy at the level of absolute spirit. Siani concludes by highlighting some broader implications of this idea for our contemporary world.

Finally, I would like to express my thanks to a number of people and institutions: Paul Cobben supported the conference generously with the remaining financial means of his chair at Tilburg University, while the research institute Clue+ of the Faculty of Humanities of the Vrije Universiteit Amsterdam co-sponsored it. Jaap Embregts assisted me in organizing the meeting. Without the benevolent support from these partners, organizing the event would have remained an infinite idea. The cooperation with the publishing house Brill has been very pleasant again.

Being at Home with Oneself in the Whole—Hegel’s Philosophy of Freedom as Actuality

Christian Hofmann

1 Introduction

Hegel’s model of normativity builds on that of Kant, while overcoming its limitations and even expanding on the whole of reality.¹ I will focus here on the fact that Hegel’s philosophy provides the subject with the possibility to be by herself, to be at home with herself in the whole. Hegel agrees with Kant, that normativity, and freedom or autonomy, are indissolubly intertwined. For Kant, only such a norm can claim legitimacy, which meets the requirements of pure practical reason and the human being’s inherent freedom. And only such a use of freedom can meet the requirements of practical reason, which actualizes autonomy and therefore gives the law to itself. But Kant’s theory of autonomy

¹ My thanks to Martin Sticker for constructive discussions on this paper.

For the works of Hegel, Kant and Aristotle, I use the following abbreviations (see the Bibliography for more detailed information):

Briefe = *Briefe von und an Hegel*, vol. 1, ed. J. Hoffmeister, Hamburg 1952.

CPR = Kant, *Critique of Pure Reason*, trans. W. Schwarz, Aalen 1982.

Enc. I = Hegel, *Encyclopedia of the Philosophical Sciences in Basic Outline*, Part 1: Science of Logic, 3rd ed. (1830), trans. and ed. K. Brinkmann and D.O. Dahlstrom, Cambridge 2010 (cited by paragraph number sometimes followed by page number; Hegel’s remarks [Anmerkungen] are indicated by an “R”).

Enc. III = Hegel, *Encyclopaedia of the Philosophical Sciences in Basic Outline*, Part 3: Philosophy of Mind, 3rd ed. (1830), trans. W. Wallace and A.V. Miller, Oxford 1971.

GW = Hegel, *Gesammelte Werke*, ed. Nordrhein-Westfälische Akademie der Wissenschaften, Hamburg 1968ff. (cited by volume and page or paragraph number).

KU = Kant, *Kritik der Urteilskraft*, ed. Königlich-Preußische Akademie der Wissenschaften, Berlin 1913.

LPWH = Hegel, *Lectures on the Philosophy of World History*, trans. R.F. Brown and P.C. Hodgson, Oxford 2011.

Pol. = Aristotle, *Politik*, ed. W. Kullmann, Reinbek 2014.

PR= Hegel, *Elements of the Philosophy of Right*, trans. H. Nisbet, Cambridge 1992 (cited by paragraph number sometimes followed by page number; Hegel’s remarks [Anmerkungen] are indicated by an “R,” additions [Zusätze] from student lecture notes by an “A”).

PS = Hegel, *Phenomenology of Spirit*, trans. A.V. Miller, Oxford 1977.

SL = Hegel, *Science of Logic*, trans. G. di Giovanni, Cambridge 2010.

does not overcome the dualism of freedom and reason on the one hand and nature and necessity on the other. Without Kant's conceptions of practical reason and freedom, Hegel's philosophy would be inconceivable, but Hegel does not content himself with the dualist position. Like Fichte and Schelling before him, he aims for a monistic position which makes it possible to conceive of the whole of reality under the perspective of freedom. According to Schelling, philosophy is the science of the "organic whole" of knowledge (cf. Schelling 1927, 235–236), and freedom is the "Alpha and Omega" of this monistic philosophy.²

Freedom is determined by Hegel especially as *Bei-sich-selbst-sein-im-Anderen*—being by oneself within the other or being at home with oneself in the other (Vieweg 2012, 46; Fulda 2014, 19–20). This concept of freedom thus is not limited to the sphere of a single subject, but only becomes actual itself in the relation to one's other—or, according to Hegel's monistic aspiration, even in the relation to *the whole*. This integral or *holistic* orientation—which has both a theoretical and a practical dimension—is characteristic for Hegel's thinking throughout from his first philosophical writings.³

But what is "the whole"? The whole must be distinguished from its parts or moments, and both sides—whole and part or its parts—are indissolubly related to each other. According to Aristotle (Pol., 1253a), the whole is logically prior to the part. We cannot speak of a "part" if we do not presuppose a whole of which it is a part. But seen from a dialectical perspective, at the same time it is clear that the whole cannot exist without its parts, because without them it would not be a "whole." The whole and its parts are mutually dependent (SL, 450–455). At the same time, the whole is not only an aggregate of the parts. The whole is only a whole, when it is thought as a *unity* which is reflected and differentiated in itself and encompasses its parts. The whole of the wholes, which

2 Cf. Fulda 2014, 15. In a letter to Hegel (from 4th February 1795), Schelling called freedom the "A und O aller Philosophie" (Briefe, 22).

3 In Hegel's Frankfurt years for example, the concept of "love" denotes also the cognitive structure of a "speculative" unity which is beyond the division of subject and object (cf. Hoffmann 2012, 110–114). And similarly, the concept of "life" is an early form which anticipates his later theory of *Sittlichkeit* (ethical life) and which seeks for an idea of communal life in which all differences can be thought as moments of a whole (cf. Jaeschke 2010, 18). Following Schelling's concept of "identity," and his own concept of "life," Hegel develops in Jena the idea of a dialectical totality in which the individual can be at home with herself and identify with the whole (cf. Hoffmann 2012, 127: "Das Verhältnis von Allgemeinem und Einzelnem kann nach Hegel grundsätzlich—und das wird dann nicht nur für den Lebensbegriff gelten—nicht zureichend nach der Logik der Subsumtion begriffen werden. Die Lebendigen fallen nicht 'unter' das Leben, sondern sie *sind* das daseiende Leben, und die Vernunftwesen fallen ganz entsprechend nicht eigentlich 'unter' den Allgemeinbegriff Vernunft, sondern sie *sind* die sich realisierende Vernunft").

encompasses the whole of reality, is the absolute (Magee 2010, 19). I understand the concept of “the whole” in this twofold sense: firstly as the absolute which is differentiated within itself and secondly, we can speak about every single entity, for example a state or the living organism of a flower, as a “whole” in itself, as a “totality.”

We find the idea of the whole, as the unconditioned totality of all phenomena, also in Kant's philosophy, but here it is only a regulative idea⁴ or, as in his concept of the “organism,” a hypothesis of reflective judgment (KU, §§61–68). For Kant, we cannot have objective knowledge of the whole, because it is not an object of possible experience. It does not have a normative meaning for us in the practical sense, too.

In contrast, Hegel's philosophy allows us the knowledge and the appropriation (both in a theoretical and in a practical sense of “appropriation”) of the whole reality. It does not know a limit of cognition, as it is given with Kant's thing in itself. For Hegel, spirit is able to overcome the distinction of subject and object, of self-consciousness and the world. The distinctions of “freedom” and “nature,” of an intelligible and an empirical realm, of theoretical and practical reason, are necessary premises of the Kantian position, but according to Hegel, thinking cannot be satisfied with these results. Since all contents of consciousness are mediated over an undivided subjectivity (the transcendental unity of self-consciousness in Kant—CPR, 46/B 132), a form of thinking is stipulated, which refers to the *totality* of these contents and which refers simultaneously to itself. Doing so, this thinking recognizes *infinity* as the “basic structure” of subjectivity which actualizes itself as *true* (and not only formal) infinity that is to say as *being by herself* (*Beisichsein*) (Jaeschke 2004, 104, 109). For this reason, this thinking fulfills subjectivity's inherent normative claim and actualizes the structure of free subjectivity for itself. Justifying and accomplishing this is the task of Hegel's logic. In its process of education (*Bildung*) which is at least a philosophical education towards a reflection of the logical categories (Vieweg 2010, 10), subjectivity finally “overlaps” on the objective world and makes it her own.

Before I move to Hegel's logic and his encyclopedic system (3) and, at the end, to his philosophy of objective spirit (4), I will go into the Preface of his *Phenomenology of Spirit* (2), where we can find also a concentrated exposition

4 The following formulation in the “Appendix to the Transcendental Dialectic” (CPR, 206/B 673) suffices here: “When surveying the cognitions of our understanding in their entire extent, we find that reason seeks to bring about in them their systematic character, that is, their contexture out of a principle. This unity of reason always presupposes an idea, the idea, namely, of the form of a whole of cognition that precedes the determinate cognition of the parts.”

of the concept of the whole which might serve as a ground for the comprehension of his later (more systematic and detailed) elaborations, as well.

2 Phenomenology of Spirit: “*The true is the whole*”

The historical and logical background for the young Hegel’s search for the whole is a diagnosis of modernity as a time of “division” (*Entzweiung*), as a product of the enlightened understanding and the social changes which were engendered by modern civil society. In his *Differenzschrift*, Hegel calls this division “the source of the need of philosophy,”⁵ because it is philosophy’s aim to overcome this division and to elevate it in a higher form of unity, in which thinking can be at home with itself. But Hegel knows at the same time, that this division is in itself an integral part of consciousness and of thinking as such. He speaks about “education” (*Bildung*) as a negative principle which destroys the harmony of the whole and gives rise to division (GW 4, 14). But we can understand *education* at the same time as “the constitutive principle of spirit” (cf. Boey 2006, 167), namely as a necessary moment which is the precondition of development. A dialectical concept of *education* then is able to bring this negativity back to itself and to generate a new and more differentiated form of the whole (Hofmann 2014a). Hegel’s philosophy allows us to think both: the progress and education of human consciousness, which for itself creates the problem of alienation from the whole, and the reconciliation of this educated (modern) consciousness with a more “educated” form of the whole. This is only possible, when we have a *dialectical concept of the whole* which integrates all stages of consciousness as its moments, which recognizes the place and the limits of each moment as a part of the whole.

In the Preface of the *Phenomenology of Spirit*, we find Hegel’s famous sentence “Das Wahre ist das Ganze” — “[t]he true is the whole” (GW 9, 19; PS, 11). If we want to think a thing as a whole, we cannot reduce it to one of its moments, but must regard it within its process. The bud, the blossom and the fruit are different stages within the life of a plant, and one “refutes” the other (PS, 2). But they are only different moments within the process of the same “organic unity,” in which each moment “is as necessary as the other” (ibid.). And, as Hegel remarks, it is “this mutual necessity alone [which; C.H.] constitutes the life of the whole” (ibid.). “The whole” then must be regarded as a necessary process, and it cannot be reduced to the abstract result of such a process: “For the real issue is not exhausted by stating it as an aim, but by carrying it out, nor is the

5 Cf. GW 4, 12: “Entzweiung ist der Quell des Bedürfnisses der Philosophie.”

result the actual whole, but rather the result together with the process through which it came about" (ibid.).

Hence, also self-consciousness and its knowledge of the whole have to be understood within the context of their logical (and historical) development. "The *actual* whole" is not an abstract concept or an empty principle, but a concrete and differentiated reality. In order to understand it, one has to think the universal together with its particular moments. And for Hegel, only the *scientific system* enables an adequate understanding of the whole, and hence of the true.⁶ The actual whole can only be depicted by *science* in the Hegelian sense, or by *speculative philosophy* (PS, 22). The abstract concept of the whole on the contrary, as in Schelling's *Identitätsphilosophie*, cannot satisfy this need, as it is "cognition naïvely reduced to vacuity" (PS, 9). The "whole" is not the *actual* whole without the thinking subject, without the subject thinking the whole. Hence, the whole itself must get the form of thinking subjectivity. According to Hegel, "everything turns on grasping and expressing the True, not only as *Substance*, but equally as *Subject*" (PS, 10). This does not mean, that the True should be thought *only* as a subject, since it is *equally* a substance, and substance and subject both are only moments of the whole (Hoffmann 2012, 231). But it is a substance which develops to, and has the *constitution* of, subjectivity (Jaeschke 2010, 182). Walter Jaeschke identifies *activity* as the "fundamental characteristic" of subjectivity, and he identifies two conditions for the activity of the *absolute*:

Sie [the activity of the absolute; C.H.] kann—erstens—nicht einem vorausgesetzten Substrat zugeschrieben werden—denn was wäre dies für ein Substrat außerhalb des Absoluten? Und sie kann—zweitens—nicht auf etwas anderes als auf sich selbst gerichtet sein—denn worauf sonst könnte sie bezogen sein, wenn nichts außerhalb des Absoluten ist? Für eine solche Tätigkeit hat die Philosophiegeschichte einen—freilich paradoxen—Begriff geprägt: Spinozas Begriff der 'causa sui.'

JAESCHKE 2010, 182

The activity of the absolute must be focused on the absolute itself. But it is not sufficient, that the absolute is thought as a *causa sui*. It also has to be regarded as *knowledge* and *self-knowledge*—hence as *Geist* (PS, 14). Spirit is the whole not only in the stage of an immediate unity, but as self-knowing unity. It is a "self-restoring sameness," a "reflection in otherness within itself" which integrates and, at the same time, is constituted by "the labour of the negative"

6 Cf. PS, 3: "The true shape in which truth exists can only be the scientific system of such truth."

(PS, 10). It is “the overcoming of alienation” (PS, 10), but it has negativity and alienation as its own necessary moments. Hence, spirit’s substance “is itself essentially the negative” (PS, 22).

The actual whole is a result of a necessary process which, at the same time, cannot be reduced to being just an abstract result—in fact the result has to be regarded within the context of its production. We cannot begin, “like a shot of a pistol, [...] straight away with absolute knowledge” (PS, 16), but we must follow spirit during its long process of education, and understand that every moment of this process is a necessary moment of the whole. Hegel’s famous theory of *recognition*, for example, which includes the idea of a social whole, in which the “I” and the “We” have merged together (PS, 110), has to be understood as a necessary moment within this encompassing development of the concretion of spirit in which it is embedded. According to Hegel, in this process we are able to free “determinate thoughts from their fixity” and see them in their “connectedness” as an “organic whole” (PS, 20). Only then spirit learns that it can be *at home with itself* within this process of the whole. And only then it can be *free* within this whole. The *method* of this process is identified by Hegel as “Logic”: “[I]ts proper exposition belongs to Logic, or rather it is Logic. For the method is nothing but the structure set forth in its pure essentiality” (PS, 28).

This “structure” (or “*der Bau des Ganzen*”, as Hegel formulates in the original text, cf. GW 9, 35) is generated “by the life of the Notion itself” (PS, 31), and all determination of its content is only given by the Notion itself.⁷ The actual whole then can be generated only “through the labour of the Notion” (PS, 43). “[T]he rhythm of the organic whole” is “logical necessity” (PS, 34)—and its form is speculative and dialectical: according to Hegel it “should admit nothing except in so far as it is comprehended [in terms of the Notion], and is the Notion” (PS, 41). But what is “the Notion”? Or (maybe better): what is “the concept”?⁸

7 Cf. PS, 32: “It is in this way that the content shows that its determinateness is not received from something else, nor externally attached to it, but that it determines itself, and ranges itself as a moment having its own place in the whole.”

8 I follow A.V. Miller’s translation of “Begriff” as “Notion” at this point, but generally prefer the translation “concept.” Cf. the translator’s (G. di Giovanni’s) note in SL, lxvii–lxviii: “[N]otion’ carries the connotation of being a subjective representation. Its meaning is also much too vague. It should be reserved for precisely such contexts as require a term without too precise a meaning. ‘Concept’ has the further advantage of being patently connected with ‘to conceive,’ just as *Begriff* is connected with *greifen*, and can easily be expanded into ‘conceptual’ and ‘conceptually grasped’ or replaced, if need be, with ‘comprehension’ and ‘conceptually comprehended.’”

3 The Whole as the Absolute Idea and as the Encyclopedic System

According to Hegel's later logic and the *Encyclopedia's* §160, the concept or the Notion is "the *free*"—"der Begriff ist das Freie" (Enc. I, §160; GW 20, §160; cf. Krijnen 2016, 27ff.). The concept is, in Christian Krijnen's words, "die ausgezeichnete und fundamentale Form des Bei-sich-seins-im-Anderen, d.i. Hegels Bestimmung der Freiheit" (Krijnen 2016, 37).

The speculative concept is free, because it determines itself, it is not determined by the other, but can be at home with itself in the other. It is not divided from being and objectivity (as in Kant's theoretical philosophy), but actualizes itself in objectivity through its moments of the universal, the particular and the individual, in a process of concrete self-determination (Krijnen 2016, 48–49). The idea thus is the actualized concept which can be at home with itself in objectivity, since it "reaches over and beyond" objectivity (Enc. I, §215) and gives actuality to itself. The idea is "nothing else" but this dialectical process of the self-determination of reason (Nuzzo 1995, 106). While in Kant, the theoretical idea is only regulative and the practical idea is characterized by an unbridgeable shift between being and ought, Hegel elevates the distinction of the theoretical and the practical idea in the absolute form which gives actuality to itself and which alone *is* true actuality (Nuzzo 1995, 110–111, 114).⁹ Thus the absolute idea can be at home with itself in the whole of reality. According to Glenn A. Magee,

the Logic is in effect the 'idea of the whole.' ... Each category in the Logic ... is a kind of "provisional definition" of the whole, but each proves inadequate and is negated by a further category. What moves this process is the immanence of the whole in each part—or, one might say, our sense of the whole, and the inadequacy of the part to fully express it. The interesting implication of this is that the dialectic involves the philosophical *recollection* of the whole.

MAGEE 2010, 257

The "recollected" whole, hence, is the absolute idea which is the result of a complex development of logical categories. And here, again, the result cannot be abstracted from the process. In this respect, Hegel's *Logic* and his *Encyclopedia*

9 Cf. SL, 734: "[T]he previously discovered reality is at the same time determined as the realized absolute purpose, no longer an object of investigation, a merely objective world without the subjectivity of the concept, but as an objective world whose inner ground and actual subsistence is rather the concept."

formulate—in a much more systematic and elaborated way—a similar claim as the *Phenomenology of Spirit*: In the Preface to the second edition of the *Encyclopedia* for example, Hegel points out that the absolute is the real subject of philosophy and that speculative philosophy tends to “restore” this “absolute content.”¹⁰ Hegel does by no means want to revive the dead tradition of pre-enlightenment, dogmatic metaphysics, but *transforms* its subjects into the frame of speculative logic (cf. Enc. I, §9 R). Logic and metaphysics now “coincide” (cf. Enc. I, §24). “Logic is the science of *the pure idea*” and “[t]he idea is thinking not insofar as the latter is formal, but insofar as it is the self-developing totality of its distinctive determinations and laws, which it gives itself and does not already *have* and find within itself” (Enc. I, §19).

Thinking is *activity* (Enc. I, §20). Here again, we find the structure of the absolute as a *causa sui*, as an active, self-determining form, and hence as the structure of subjectivity, of *freedom*. This thinking expands on every aspect of reality and it is the foundation of every conscious relationship. But while thinking about an object, thinking reflects also on itself, it is mutually a self-relation, a reflection on its own activity, “thinking of thinking” (Enc. I, §19).

Thinking which is the essential characteristic of the human being (cf. Enc. I, §2) is for Hegel the sphere of *freedom*, in which we *can be at home with ourselves* (cf. Enc. I, §23). Hans Friedrich Fulda gives a complex distinction of different aspects of this *Bei-sich-selbst-sein* which I want to summarize here in a very simplified way in four points: it means firstly the being at home of the concept (as the mediated unity of the universal, the particular and the individual) *in itself* and its *self-determination* to itself; secondly the concept as subjectivity determines itself in its relation to *the other*, to *objectivity*, in which it loses itself, but gains itself back as the *end* which it posits in objectivity; thirdly the concept, as the *idea*, arrives the complete concordance with itself within objectivity; fourthly the logical concept or the idea has to actualize itself and arrive this concordance also within the “non-logical” realm.¹¹

The question of freedom and the aim of being at home with oneself in the other are not only logical problems, of course, but have to be answered for the other subjects of philosophical thinking, too. Not only the logic, but nature and spirit, too, have to be regarded under this perspective of actualized freedom. The outcome of the actualization of the idea within the spheres of nature and

10 Cf. Enc. I, 9: “Inasmuch as the spirit initially strove to venture beyond this absolute content and placed itself above it, such a procedure proves to be nothing other than the restoration of that content—but a restoration in the most distinctive, freest element of the spirit.”

11 Cf. the much more detailed distinctions in Fulda 2014, 19–24.

spirit is the *system*.¹² Only the system makes it possible to be with oneself in every aspect of thinking, it enables the coherence of all moments and it gives (according to the principles of the speculative logic) every moment its place. The system thus is not a “corset” or a limit of thought, but rather it is thought’s product and it alone makes it possible, that we can be at home with ourselves in the whole (Hoffmann 2012, 31).

This does not mean, of course, that we, as finite individuals, can be at home with ourselves in every aspect of factual life. We cannot be simply at home with ourselves, of course, in the moment when we are getting attacked by a mob of mosquitoes or when we die. It does not mean that everything is harmonious or beautiful, or that all aspects of existence should be affirmed, but that the structure of the whole can be recognized as rational and as the actualization of the idea of freedom. “Actuality” has to be recognized as “rational,” but only these aspects of existence can be understood as “actual” (in the Hegelian sense) which accord with the idea (cf. Enc. I, §6 R; PR, 20–21). Thus, we can be at home with ourselves on a *philosophical* level and we can affirm the whole philosophically. The whole is not “the untrue” which suppresses the individual, as Adorno suspects (Adorno 1980, 55), but it is the differentiated unity in which the universal is mediated with the individual and which is also the condition for the concrete actualization of the individual (Hoffmann 2012, 26–27).

This indicates a critical dimension of Hegel’s philosophy in general: it demands itself the development towards forms of life and thinking, in which subjects can be at home with themselves. And this demand is as *relevant* today as it was in Hegel’s own time: Hegel provides us with the *task* to make freedom even more concrete in our acting and thinking and in the social conditions and institutions that we live in.

At the beginning of the *Encyclopedia*’s chapter on “spirit,”¹³ we learn about the “absolute’ commandment” of self-knowledge (Enc. III, §377). The commanded self-knowledge is that of the human being, not as a particular individual, but in its substance. And it is spirit’s task to explore this self-knowledge

12 In the following part of the text, I will not examine Hegel’s philosophy of nature. In nature, of course, thinking cannot be at home with itself totally. Through knowledge, there is some kind of reconciliation with nature, since we can find for example forms of “subjectivity” and self-organization already in the organisms of plants and animals (GW 20, §§343, 350), and spirit finally recognizes itself as the “truth” of nature (Enc. III, §381). However, this reconciliation within the sphere of nature is limited. Nature is the logic’s other, but nevertheless nature is a necessary condition for the generation of spirit, in which the former is elevated. Only in spirit thinking can be at home with itself, since here, in spirit, the subject and the object of thinking are identical in the end.

13 W. Wallace and A.V. Miller translate “Geist” in Enc. III as “mind,” but I use consistently the English word “spirit” here.

in all of its stages. Doing so, spirit does not examine itself just as a theoretical object (as for example in the perspective of the natural sciences or in psychological introspection), but must regard itself as *subjectivity* which entirely generates itself—"for spirit is only what it does" (PR, §343). Hence, spirit will only know itself if it reflects on its own *activity*, as it is essentially activity, *energeia*. Self-knowledge then means, being aware of its own freedom, of its process of liberation from boundedness to substance towards self-conscious subjectivity. Because of this "absolute commandment" of self-knowledge and freedom, there is basically no region of spirit which is not normative, *too*. The whole of spirit is normatively structured from the very start.¹⁴

In subjective spirit for example, there is no abstract distinction between a normative sphere of reason on the one hand and a "non-normative" empirical sphere of the body on the other hand (as in Kant), but spirit and hence the human being has to be thought of as a "*living unity*" (Enc. III, §379). This unity is in the first instance the *soul* which cannot be divided by its body. While consciousness is always characterized by a shift between subject and object, the soul is the substantial totality which underlies all further divisions. From the beginning, the soul is characterized as a sense of totality and therefore by an inherent need to be at home in the whole.¹⁵ Both moments, the differentiations of consciousness and the unity of the soul, are elevated within the concept of spirit in which reflection gets reconciled with the whole again (Hoffmann 2012, 422).

But spirit does not want to be at home with itself solely on the subjective level, it wants to be at home with itself also in the *other*, in the objective world of human communities. And spirit must also transcend these finite forms and return finally to the true infinity which it finds only in himself—the absolute spirit.

In the development of spirit's self-knowledge and freedom, objective spirit, as the middle term between subjective and absolute spirit, is the place where spirit goes into the outside, to "the so-called external world,"¹⁶ and finally makes this foreign world its own. This is the work of the *free will* in the outer world: "But the purposive action of this will is to realize its concept, Liberty,

14 I would not go so far, but Adriaan T. Peperzak even detects a "fundamental ethics" in Hegel's philosophy of subjective spirit, and in his view "Hegel's concrete ethics ... includes *all* parts of his philosophy of spirit" (Peperzak 1983, 361). At any rate, the foundation of Hegel's normative philosophy of spirit (I would not use such a wide concept of "ethics" here) is already laid in his logic.

15 Cf. Enc. III, §403 R: "The soul is virtually [*an sich*; C.H.] the totality of nature: as an individual soul it is a monad: it is itself the explicitly put totality of its particular world—that world being included in it and filling it up; and to that world it stands but as to itself."

16 Cf. GW 26:3, 1070: "die sogenannte Aussenwelt."

in these externally objective aspects, making the latter a world moulded by the former, which in it is thus at home with itself, locked together with it: the concept accordingly perfected to the Idea" (Enc. III, §484). "Liberty"—or better: *freedom*—then is "shaped into the actuality of a world" (ibid.). Its goal is to build a social world that fits a truly *free will*. This process must be seen both as an expansion and as a reflective return into itself which brings out "the universality of thought" (PR §20). *Thought*, however, demands a social world created according to the claims of *reason* and *freedom*, it demands the "*education*" of ethical life (PR, §§ 20, 270). And the development of the necessary categories of a free social world is the topic of Hegel's whole philosophy of objective spirit, with the result that spirit "becomes at home in and reconciled with the objective world" (PR, §353) in the end.

4 Objective Spirit: Hegel's *Philosophy of Right* and the Concrete Free Will

The subject of Hegel's *Philosophy of Right* is the concept of right and its actualization as the idea (PR, §1).¹⁷ The "point of departure" here is the free will as such which is regarded in its development towards its actualization in the social world, as it is prominently pointed out in §4 of the *Elements of the Philosophy of Right*. With this aspiration, Hegel regards the whole social world as a "realm of actualized freedom" that can be justified as the unfolding of the free will (PR, §4). Hegel thus uses a very wide concept of "right," which is not limited to the sphere of "juristic law," but must be understood "as the actual body of all the conditions of freedom" (Enc. III, §486). The whole objective world must be regarded under the teleological perspective of the unfolded idea, therefore as a *result* of a development of rational categories. This unfolded "realm of actualized freedom" must have the form of a concrete universal, a speculative unity of universality and particularity, in which the universal is mediated with the single citizen (Jaeschke 2010, 390–391). This concrete universal is thought by Hegel as a substance, but as we have already seen, for him it is clear that "the absolute form and existent actuality of substance" (PR, §152) is itself subjectivity. It has the structure of "subjectivity" (as it is based on knowledge and rationality), and it also depends on the free subjectivity of its citizens and their voluntary identification with the rational universal. And this subjectivity is rooted in the principle of the free will which has to be regarded in its self-determination.

17 Chapter 4 is in large part a shorter version of Hofmann 2014b, 257–260, 265–268.

Hegel sees the will at first in “the element of *pure indeterminacy*” (PR, §5), hence as “*negative freedom*” which is the “*absolute possibility of abstracting from every determination in which I find myself or which I have posited in myself*” (PR, §5 R, 38). According to its negativity, this abstract freedom is the possibility to reject or destroy any particular content. The next logical stage is the negation of this abstract negation: The will now gives itself a particular content, through its “positing of itself as something *determinate*” (PR, §6). But it still has to recognize itself as self-determined, and that is the will as an individuality which knows that it is mediated with both its abstract universality and determined particularity as a “*reference to itself*” through its own free activity (PR, §7). At this third stage the will is the concrete universal, the speculative structure of a whole, thought of as “self-mediating activity” and “return into itself” (PR, §7 R, 42). It now can be free in all of its relations to any object or content, knowing that in all of these relations it will always be with itself (PR, §7 A). This speculative “fundamental structure” of the free will, and the necessary coherence of its moments, is the basis of Hegel’s Philosophy of Right (cf. Vieweg 2012, 57–67).

It is in *thought*—and *only* in thought—that the will becomes aware of its freedom as “*self-determining universality*” (PR, §21 with R, 52–53) and finds out that it can always come back to itself as “*truly infinite*” (PR, §22). According to Hegel, only in this rational freedom of thought the will is “completely *with itself* [*bei sich*], because it has reference to nothing but itself” (PR, §23). But we are also facing the question, how the free will, as the principle of subjectivity, might shape the objective world. It is the task of “*translating the subjective end into objectivity*,” into “external immediate existence” (PR, §8, 42–43). How can the free will not only determine itself, but regard its own actions and relations in the objective world as its own, in so far that the latter might correspond to the will’s self-determination? This is already the problem of action that Hegel discusses in the chapter of morality (see Menegoni 2005, 131, fn. 7), and which is not solved there, but only in the idea of *ethical life* (*Sittlichkeit*). While abstract right is the realm of objective norms which are indifferent against the subjectivity of the individuals, and morality is the sphere of subjective autonomy which is characterized by a necessary division of ought and being, ethical life is the form, in which subjects can be at home with themselves in the objective world. Thus, Hegel focuses on an “actuality” which is already “rational” in itself, in which the distinction of “being” and “ought” has been elevated.

The “translation” of the subjective end into objectivity must be understood as the task of the “extension” of the *rational* will: this will is the free will, as “the *universal which extends beyond its object, which permeates its determination* and is identical with itself in this determination” (PR, §24 R, 55). In this

“extension” or “overlapping” (*Übergreifen*) (GW 14.2, 351) the free will is taking over the objective world, establishing a system of right, “penetrating” the institutions of the social world. It is therefore “cancelling ... the contradiction between subjectivity and objectivity,” while giving itself an objective form and “while at the same time remaining *with itself* in this objectivity” (PR, §28, 57). The will can achieve this freedom only through the power of (speculative) thought and its “education” (PR, §20), by emancipating itself from random contents and giving itself the universal law, a law that must take the universal principle out of itself: and this is “*the free will which wills the free will*” (PR, §27), which wills itself in its own concrete universality.

This happens in ethical life. Here the social sphere is regarded *as a whole*, which is, as the universal, logically prior to the individuals. His speculative logic allows Hegel to regard ethical “actuality” itself as a rational totality and as the result of the self-realization of the idea. Therefore the social institutions of ethical life can be reconstructed as “*rational forms of life*,” as realizations of an “*autonomia phaenomenon*” (Hoffmann 2007, 18). According to the modern consciousness of freedom, the social and political institutions must, at the same time, satisfy the demands of autonomous subjectivity. The individual's relation with the ethical universal cannot be based on an abstract identity anymore (as in traditional societies), an immediate “[f]aith and trust,” but has to “turn into ... a relationship mediated by *further reflection*, into insight grounded on reasons” (PR, §147 R). The modern and rational state must be “the actuality of concrete freedom” in which the “personal individuality” is fully recognized in its right: “The principle of modern states has enormous strength and depth because it allows the principle of subjectivity to attain fulfilment in the *self-sufficient extreme* of personal particularity, while at the same time *bringing it back to substantial unity* and so preserving this unity in the principle of subjectivity itself” (PR, §260).

Therefore the state must have “*passed through the form of education*” (PR, § 270, 290). The modern state, which is based both on the objective institutions and on the subjective “disposition” and participation of its citizens (cf. PR, §§ 260–274, 287–320), is as such *integrative*, and it can build on a pluralist and “multicultural” (see Cobben 2002) “open society” (not in the sense of Karl Popper, of course), in which each citizen is recognized as a human being (PR, §209). Although the forms and possibilities of participation that Hegel provides for the citizens, such as taking part in the legislative process and in public debates, should be expanded (regarded from today's perspective), the *telos* of this further development is to my mind already inherent in Hegel's logic of the concept. Regarding this teleology of a further development and actualization of the idea to a concrete universal as the community of the autonomous

subjects, Hegel's *Philosophy of Right* reveals the fundamental structure of a normative social theory, which can serve also as a critical benchmark today. It reveals a normative perspective of development, and every state and every institution can be measured on the question, if it satisfies the consciousness of modern freedom or not.

According to Hegel, even the whole of *world history* has to be seen within this universal process of liberation, as a kind of “*education of the human race*,” as Hegel formulates in reference to Lessing (PR, §343), and as “the progress of the consciousness of freedom” (LPWH, 88). Hence the philosophical perspective observes the topic of history not just as a collection of “objective facts,” but regards it as a rational totality which is structured by the normative goal of actualizing freedom and reason. Here again, Hegel does not only want to formulate a hypothesis in a moral purpose (as Kant), but thinks history consequently from the perspective of the speculative concept. Doing so, the philosophy of history elevates the limited political sphere to a higher perspective which already reaches the threshold of absolute spirit (Enc. III, §552).

5 The True Infinity of the Absolute Spirit

The absolute idea demands an absolute spirit which transcends the limitations, in which finite spirit is still captured, to a “true infinity” (cf. Jaeschke 2004, 111–116). Only here, the normative claim of self-knowledge is accomplished, whose intention it is to be at home with itself in the whole. And only philosophy (and according to Hegel only philosophy in the Hegelian sense, of course), can satisfy this need completely, since only here the need for the absolute meets the requirements of speculative reason. Philosophy is a “circle of circles.”¹⁸ And only in the thinking of thinking (the Aristotelian idea of the *noesis noeseos*) this circle is fulfilled (Enc. III, §§ 574–577); the logical form of the absolute idea is transformed into the world of spirit and actualizes itself in true infinity, so that subjectivity can be completely at home with itself in the whole.

18 Cf. Enc. I, §15: “The whole thus presents itself as a circle of circles each of which is a necessary moment, so that the system of its distinctive elements makes up the idea in its entirety, which appears equally in each one of them.”

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Hegel's Radicalization of Kant's Copernican Turn: the Internal Unity of the Natural and the Moral Law

Paul Cobben

1 Introduction

In the first part of my paper, I will reconstruct the starting position of Kant's *Critique of pure Reason*, as the result of a number of transformations that Kant performed with regard to David Hume. In the second part I will discuss, how Hegel transforms Kant's three faculties of cognition in the Consciousness-chapter of the *Phenomenology of Spirit*. In the third part, I interpret the beginning of the Self-consciousness-Chapter of the *Phenomenology of Spirit*, as the self-conscious repetition of the development of the Consciousness-chapter. Only the insight into this systematic coherence explicates Hegel's fundamental criticism of Kant's transcendental subject. I hope this insight can correct the misunderstanding of this chapter that is spread by thinkers as Honneth,¹ Pippin, Brandom and McDowell.

2 Kant's Transformation with Regard to David Hume

Kant's point of departure in the *Critique of pure Reason* can be understood from a number of transformations with regard to the position of David Hume. First of all, he transforms Hume's impressions into intuitions. Both impressions and intuitions appear in the form of space and time. For Kant, however, space and time are the subjective forms of pure intuition, while Hume takes them as the (objective) forms of the impressions themselves.² This transformation is the first part of the so-called Copernican turn that is meant as a solution for a

1 See also: Paul Cobben (2012), Chapter 5: Axel Honneth's Interpretation of Self-Consciousness, (pp. 91–104)

2 David Hume (1777), p. 19: "First, when we analyze our thoughts or ideas, however, compounded or sublime, we always find that they resolve themselves into such simple ideas as were copied from a precedent feeling or sentiment."

problem that Hume cannot solve.³ On the one hand, the impressions seem to be part of nature in itself, but, on the other hand, the impressions are interpreted as perceptions. It remains unclear, however, how the subject of perception is related to the impressions. Kant, on the contrary, explicitly distinguishes between nature in itself (as the *Ding an sich* that transcends our knowledge) and the intuitions.⁴ In the intuitions, nature in itself appears for us in the form of time and space, namely as transcendental object.⁵

To make the appearing nature an object of cognition, the many intuitions have to be synthesized into a unity. According to Kant, this synthesis is performed at three levels that correspond to the three faculties that belong to the subject of cognition.⁶ The first level concerns intuition. Since intuitions are perceived in the form of time and space, and since these forms belong to the subject of intuition, intuition is already situated throughout. The perceived intuitions are dependent on the perceiver's position in time and space and are synthesized into an appearance (*Erscheinung*).⁷

The second level concerns the second faculty of cognition, namely *imagination*.⁸ At this level Kant performs the second transformation with regard to Hume. According to Hume, the perceiving subject can internalize impressions as simple ideas, i.e. as impressions that are retained in memory. Objects of cognition are understood as simple ideas that are synthesized into complex ideas.

3 Immanuel Kant (1787), p. 20: "In der Metaphysik kann man nun, was die Anschauung der Gegenstände betrifft, es auf ähnliche Weise versuchen. Wenn die Anschauung sich nach der Beschaffenheit der Gegenstände richten müsste, so sehe ich nicht ein, wie man a priori etwas von ihr wissen könnte; richtet sich aber der Gegenstand (als Objekt der Sinne) nach der Beschaffenheit unseres Anschauungsvermögens, so kann ich mir diese Möglichkeit ganz wohl vorstellen."

4 "Der Raum stellt gar keine Eigenschaft irgend einer Dinge an sich [...] vor" (KdRV, B 42). "Die Zeit ist nicht etwas, was ... den Dingen an sich als objektive Bestimmung anhängt" (KdRV, B 49)

5 "Erscheinungen sind die einzigen Gegenstände, die uns unmittelbar gegeben werden können, und das, was sich darin unmittelbar auf den Gegenstand bezieht, heisst Anschauung. Nun sind aber diese Erscheinungen nicht Dinge an sich selbst, sondern selbst nur Vorstellungen, die wiederum ihren Gegenstand haben, der also von uns nicht mehr angeschaut werden kann, und daher nicht empirische, d.i. transzendente Gegenstand = X genannt werden mag," (KdRV, A 109)

6 "Es sind drei subjektive Erkenntnisquellen, worauf die Möglichkeit einer Erfahrung überhaupt, und Erkenntnis der Gegenstände derselben beruht: Sinn, Einbildungskraft und Apperzeption" (KdRV, A 115).

7 "Diejenige Anschauung, welche sich auf den Gegenstand durch Empfindung bezieht, heisst *empirisch*. Die unbestimmte Gegenstand einer empirischen Anschauung heisst *Erscheinung*" (KdRV, B 34).

8 "die Einbildungskraft [stellt die Erscheinungen] in der Assoziation (und Reproduktion) [vor]" (KdRV, A 115)

Hume introduces the copy-principle⁹ to clarify that some complex ideas can copy the structure of the impressions. However, it remains incomprehensible how the transition from the objective structure of the impressions in time and space into the subjective level of the complex ideas can be made. The faculty of imagination mediates between Begriff and Anschauung.¹⁰ Therefore, this faculty enables Kant to conceive of how an object of cognition in which ideas (conceptions) are synthesized can nevertheless be related to intuitions in time and space (although this time these structures belong to the world of appearance, not to nature in itself). Imagination situates the objects of cognition as objects of intuition.

The third level concerns the faculty of understanding and is Kant's third transformation with regard to Hume. This level has to be introduced because the synthesis of imagination without understanding does not result in an object of recognition in which the manifold of intuitions is identified in a unique manner.¹¹ This is only the case if the synthesis of intuitions is situated within the entirety of all possible intuitions. To this aim the synthesized intuitions have to be understood as the expression of a unity, an object of cognition that is distinguished from all other similar unities: as well from unities that exist at the same time and from unities that exist at another time in future or history.¹² With this synthesis of understanding, Kant transforms Hume's principles of association,¹³ resemblance, contiguity and cause and effect.¹⁴ According to

9 "First, when we analyze our thoughts or ideas. However compounded or sublime, we always find that they resolve themselves into such simple ideas as were copied from a precedent feeling or sentiment" (Hume, p. 19).

10 "Wir haben also eine reine Einbildungskraft, als ein Grundvermögen der menschlichen Seele, das aller Erkenntnis a priori zum Grunde liegt. Vermittelt deren bringen wir das Mannigfaltige der Anschauung einerseits, und mit der Bedingung der notwendigen Einheit der reinen Apperzeption andererseits in Verbindung. Beide äusserste Enden, nämlich Sinnlichkeit und Verstand, müssen vermittelt dieser transzendentalen Funktion der Einbildungskraft notwendig zusammenhängen" (KdRV, A 124).

11 "Würde nun aber diese Einheit der Assoziation nicht auch einen objektiven Grund haben, so dass es unmöglich wäre, dass Erscheinungen von der Einbildungskraft anders apprehendiert würden, als unter der Bedingung einer möglichen synthetischen Einheit dieser Apprehension, so würde es auch etwas ganz zufälliges sein, dass sich Erscheinungen in einen Zusammenhang der menschlichen Erkenntnisse schickten" (KdRV, B 121).

12 "Die Einheit der Apperzeption in Beziehung auf die Synthesis der Einbildungskraft ist der Verstand, und eben dieselbe Einheit, beziehungsweise auf die transzendente Synthesis der Einbildungskraft, der reine Verstand" (KdRV, A 119).

13 David Hume deduced these principles of association "durch not gedungen, von der Erfahrung ab (nämlich von einer durch öftere Assoziation in der Erfahrung entsprungen subjektiven Notwendigkeit, welches zuletzt fälschlich für Objektiv gehalten wird, d.i. der Gewohnheit" (KdRV, B 127).

14 "To me, there appear to be only three principles of connexion among ideas, namely, *Resemblance*, *Contiguity* in time and space, and *Cause or Effect*." (Hume, p. 24)

Hume, an object of cognition is a synthesis of simple ideas into a complex idea. The consciousness of cognition achieves this synthesis by connecting simple ideas in time and space with the help of the association principles. The association principle resemblance mediates by synthesizing a manifold of simple ideas as the appearance of a unity; with the help of the association principle contiguity, this unity is distinguished from other unities that can be identified at the same time; and with the help of the association principle cause and effect this unity is distinguished from unities that can be identified at another time.

The synthesis that is performed by intuition can be analyzed as a form of judgment in which some qualities (intuitions) are or are not connected into appearances. At the level of imagination, the form of judgment is more concretized because also quantitative aspects are taken into account. Now the synthesis concerns intuitions that can be linked to a three-dimensional space: the besides one-another that is put in a quantitative unity. Finally, at the level of understanding the form of judgment is concretized still more because quality and quantity are internally related to one-another. Now the many intuitions are brought together into an internal unity that is unambiguously situated in time and space.

For the present, the judgment that identifies the object of cognition is a subjective one because the many intuitions are put into a unity with the help of the subjective faculties of cognition: intuition, imagination and understanding. The unity of the object of cognition does not seem to have any foundation in the thing in itself. In a similar manner, David Hume states that the synthesis of simple ideas into a complex idea has no foundation in nature in itself, but is rather the product of a psychological consciousness. But precisely at this point Kant performs a fourth transformation with regard to Hume. Kant agrees to Hume that true knowledge cannot be understood as a subjective interpretation of reality, even when this interpretation is intersubjectively shared on the base of a common psychological constitution.¹⁵ Therefore, Kant investigates the conditions under which the thing in itself appears to us, i.e. to beings whose knowledge is mediated through the senses. Kant's decisive intervention can be characterized as the second part of his Copernican turn: by assuming that the judgment functions of the faculties of cognition are categorically mediated the synthesis that is produced by the subject of cognition

15 "Here, then, is a kind of pre-established harmony between the course of nature and the succession of our ideas; and though the powers and forces, by which the former is governed, be wholly unknown to us; yet our thoughts and conceptions have still, we find, gone on in the same train with the other works of nature. Custom is that principle, by which this correspondence has been effected" (Hume, p. 54/5).

can nevertheless be understood as true knowledge.¹⁶ To put it in Heideggerian terms: the propositional truth is at the same time the material truth (although the material truth does not concern the thing in itself, but rather the thing in itself insofar as it is known by beings whose knowledge is sensually mediated).¹⁷

At the level of intuition, many qualities (intuitions) are synthesized into an appearance (intuitions connected in time and space). Therefore, the appearance can be understood as an undetermined propositional truth that is based on qualitative forms of judgment. At the level of imagination, this undetermined propositional truth gets a closer determination because the situatedness of the qualities is explicitly taken into account: at a certain time the intuitions are situated in a three dimensional image.¹⁸ Because this situatedness means that the after- and besides one-another is determined in a quantitative relation, the synthesis of imagination, the image, is not only based on qualitative, but also on quantitative forms of judgment. Only at the level of understanding it is possible to unambiguously identify the propositional truth because in the synthesis of understanding, namely in the substance, quality and quantity are taken in an internal relation: substance expresses itself in a manifold of qualities that are situated in time and space and is related to all other substances. For that reason, the synthesis of understanding is not only based on qualitative and quantitative, but also on relational forms of judgment.

If Kant assumes that the judgments of the three faculties of cognition are categorically mediated, he can conclude that the propositional truth can at the same time be understood as material truth.¹⁹ For it is true that the categories

16 "oder ich nehme an, die Gegenstände, oder, welches einerlei ist, die *Erfahrung* in welcher sie allein (als gegebene Gegenstände) erkannt werden, richtet sich nach diesen Begriffe, so sehe ich sofort eine leichtere Auskunft, weil Erfahrung selbst eine Erkenntnisart ist, die Verstand erfordert, dessen Regel ich in mir, noch ehe mir Gegenstände gegeben werden, mithin a priori voraussetzen muss, welche in Begiffen a priori ausgedrückt wird, nach denen sich also alle Gegenstände der Erfahrung notwendig richten und mit ihnen übereinstimmen müssen" (KdrV, B xvii).

17 "Doch ist die so begriffene Wahrheit, die Satz Wahrheit (propositional truth, p.c.), nur möglich auf dem Grunde der Sach Wahrheit (material truth, P.C.), der adequation rei et intellectus" (Heidegger, 1986, p.8).

18 "Die Einbildungskraft soll nämlich das Mannigfaltige der Anschauung in ein *Bild* bringen; vorher muss sie also die Eindrücke in ihre Tätigkeit aufnehmen, d.i. apprehendieren" (KdrV, A 120).

19 "Die wirkliche Erfahrung, welche aus der Apprehension, der Assoziation, (der Reproduktion,) endlich der Recognition der Erscheinungen besteht, enthält in der letzteren und höchsten (der bloss empirischen Elemente der Erfahrung) Begriffe, welche die formale Einheit der Erfahrung, und mit ihr alle objektive Gültigkeit (Wahrheit) der empirischen

are pure concepts of understanding, but they also constitute the object of cognition in which the material truth is expressed. The constitution of the object of cognition is not an act of creation, because understanding is not enabled to intellectual intuition. The constituted object of cognition is always a synthesis mediated by intuition and understanding. Therefore, we can now understand that the synthesis has not to be understood as a synthesis of judgment functions that subjectively bring together intuitions, but as a synthesis of an manifold of intuitions according to the rule provided by the categories of understanding. The judgment forms of quality, quantity and relation are grounded in the categories of quality, quantity and relation. Therefore the resulting object of cognition is not only a propositional truth, but also a material truth. For the categories constitute the material truth insofar as their input in the synthesis mediated by intuition and understanding stands for the objectivity of experience.²⁰

As a consequence, the subject of the act of synthesis in Kant is not a psychological subject²¹ that arbitrarily connects simple ideas in space and time. The Kantian act of synthesis is grounded in the transcendental subject. This transcendental subject does not create the object of cognition (it has neither intellectual intuition to its disposal, nor it is a psychological subject), but rather stands for the transcendental condition under which the synthesis between intuition and understanding can be conceived of at all. In this synthesis, the transcendental matter of the appearances is grounded in the categories and concretized into material truth.

3 Hegel's Transformation with Regard to Immanuel Kant: the Consciousness-chapter of the *Phenomenology of Spirit*

The stages of Consciousness in the first chapter of the *Phenomenology of Spirit*, Sense Certainty, Perception and Understanding, can be understood as

Erkenntnis möglich machen. Diese Gründe der Rekognition des Mannigfaltigen, sofern sie bloss der Form einer Erfahrung überhaupt angehen, sind nun *jene Kategorien* (KdrV, A 124/5).

20 "Der reine verstand ist also in den Kategorien das Gesetz der synthetischen Einheit aller Erscheinungen, und macht dadurch Erfahrung ihrer Form nach allererst und ursprünglich möglich" (KdrV A 128).

21 "daher man auch lieber den inneren Sinn mit dem Vermögen der Apperzeption (welche wir sorgfältig unterscheiden) in den Systemen der Psychologie für einerlei auszugeben pflegt" (KdrV, B 153).

the attempt to critically think through the faculties of cognition that Kant distinguishes: intuition, imagination and understanding (Gadamer 1973, 106.). As intuition has objectified nature as appearances that appear in time and space, also Sense Certainty has objectified nature as a manifold of things that appear in time and space. Hegel investigates under which conditions the certainty of Sense Certainty (its propositional truth), namely to have knowledge of nature in itself, can be brought to material truth. He concludes that in the immediate relation of Sense Certainty true knowledge is impossible. It is true that Sense Certainty brings together many intuitions into the unity of the thing, but this does not result in knowledge of nature in itself. After all, consciousness of Sense Certainty is situated: the unity of the thing is dependent on consciousness' situatedness in space and time.²² Therefore, the thing that Sense Certainty makes its object can be compared to Kant's transcendental object of intuition. In both cases it is about a connection of intuitions in time and space that cannot be understood as the realization of the underlying unity (namely the thing or the transcendental object).

Nevertheless, there is an essential difference between the positions of Kant and Hegel. According to Hegel, true knowledge can only concern the thing in itself.²³ This means that he at least cannot share the first part of Kant's Copernican turn.²⁴ For Hegel, time and space are not subjective forms, i.e. pure forms of intuition. Hegel rather investigates under which conditions the intuitions that appear in time and space can be understood as expressions of the thing in itself. This makes that it has to be explained that the unity of the thing is unconditional, i.e. not dependent on conditions outside the thing.

Since the unity of the thing of Sense Certainty appears to be dependent on the situatedness of consciousness, it cannot be understood as an adequate appearance of the thing in itself. For Hegel, however, this does not mean that

22 PhdG, 64: "Eine wirkliche sinnliche Gewissheit ist nicht nur diese reine Unmittelbarkeit, sondern ein *Beyspiel* derselben. Unter den unzähligen dabey vorkommenden Unterschieden finden wir allenthalben die Hauptverschiedenheit, dass nämlich in ihr zugleich aus dem reinen Seyn, die beiden schon genannten *Diesen*, ein *Dieser* als *Ich*, und ein *Dieses* als *Gegenstand* herausfallen."

23 PhdG, 54: "Diese Consequenz ergibt sich daraus, das das Absolute allein wahr, oder das Wahre allein absolut ist."

24 This first part of the Copernican turn expresses Kant as follows: "Wenn die Anschauung sich nach der Beschaffenheit der Gegenstände richten müsste, so sehe ich nicht ein, wie man a priori von ihr etwas wissen könnte; richtet sich aber der Gegenstand (als Objekt der Sinne) nach der Beschaffenheit unseres Anschauungsvermögens, so kann ich mir diese Möglichkeit ganz wohl vorstellen" (KdrV, B xvii).

the thing has to be reduced to a subjective propositional truth. Hegel has made clear that the relation of cognition cannot sensibly be separated from the thing in itself. The intuitions of Sense Certainty in Hegel have another status than the intuitions in Kant. Analogously to the impressions in Hume, the intuitions of Sense Certainty are understood as immediate expressions of the objective reality in time and space. But in contrast to the impressions in Hume, the intuitions of Sense Certainty cannot be separated from the subject of cognition, namely consciousness. Consciousness only exists insofar as it has identified the intuitions as a thing (that it considers to be a thing in itself). The situatedness of the intuitions is identical to the situatedness of consciousness. Therefore, if Sense Certainty cannot identify its object of cognition because it is not able to bring forward its situatedness, this for the time being does not mean that Sense Certainty has no knowledge at all of the thing in itself. If the thing in itself does not appear at all, then it becomes meaningless to speak about true knowledge. Finally it becomes clear that Sense Certainty one-sidedly determines the thing in itself in one of its moments, namely the moment of quality. In the intuitions it is expressed that the thing in itself appears in certain qualities. As the appearance in Kant, the thing is determined through the categories of quality.²⁵ The categories in the Hegelian sense, however, are no pure concepts of understanding that are involved in the constitution of the object of cognition, but rather constituting moments of the thing in itself.²⁶

At the level of Perception, the hidden presupposition of Sense Certainty, namely the situatedness of consciousness, is explicated. The object of cognition can only be identified if the intuitions are situated in the middle of all

25 The intuitions (Empfindungen) in Kant are qualitatively determined: "was davon zum Empfindung gehört, als Undurchdringbarkeit, Härte, Farbe usw." (KdrV, B 35). Insofar the intuitions are a moment of the concrete object of cognition (as synthesis between intuition and understanding), their qualitative determination is mediated by the categories of quality.

26 In his *Enzyklopädie der philosophischen Wissenschaften im Grundrisse*, Hegel has laid down that the thing in itself has to be understood as absolute spirit. As constituting moments of spirit, the categories of logic are also constituting moments of the thing in itself. In my article "The logical Structure of Self-consciousness" I have developed that the logical structure of Sense Certainty is determined by the categories of quality. "The categories being, determinate being and being-for-itself somehow recapitulate the Kantian categories of quality: reality, negation, and limitation. The Hegelian categories, however, are categories of reality itself. They do not one-sidedly refer to the human faculty of cognition" (p. 197).

other intuitions.²⁷ This means that the intuitions have to be understood as properties that determine the unity of a specific thing. Therefore, Perception can be understood as Hegel's critical transformation of imagination. As imagination gives a closer determination of appearance by determining it with the help of the categories of quantity, so Perception gives a closer determination of the thing with the help of quantitative determinations that finally can be explicated as Hegel's categories of quantity.²⁸ But at the same time Hegel's criticism of Kant becomes clear. While imagination in its constitution of the image mediates between intuition and understanding, Perception shows that this mediation results in a contradiction. The apperception of the Perception cannot justify how the manifold of intuitions can be connected into an objective material truth. It is true that Perception brings many intuitions together into a unity (the thing is an also). But as properties the intuitions are already involved in the unity of a specific concept throughout (the thing is a one²⁹). From the intuitions themselves, however, it cannot be deduced that they are properties of a specific concept (and not the properties of another concept). In other words, the bringing together of properties is a subjective act that does not ground in the world of appearance. Perception is not able to identify its object of cognition as a concrete individual object. This unique unification would only succeed if Perception could identify the properties of its concept immediately as intuitions in the middle of other intuitions. The positive determination of intuitions as properties, however, does not exclude all other intuitions as properties. In the determinations of intuitions as properties of a concept their ordering in space and time gets lost.³⁰

27 PhdG, p.71: "Da sein Prinzip das Allgemeine, in seiner Einfachheit ein *vermitteltes*, so muss er dies als seine Natur an ihm ausdrücken; er zeigt sich dadurch als *das Ding von vielen Eigenschaften*."

28 In Paul Cobben (2003, 198), I have developed that the logical structure of Perception is determined by the categories of quantity.

29 PhdG. P.73: "und dieses [Medium, p.c.] ist daher nicht nun rein *Auch*, gleichgütige Einheit, sondern auch *Eins*, *ausschliessende Einheit*."

30 Hegel's fundamental criticism of Kant, therefore, concerns the attempt of the latter to synthesize concept and intuition at the level of theoretical reason. According to Elisa Magri (2016), Hegel contends that the unity between Transcendental Aesthetic and the Analytic "undergoes a radical modification between the first and the second edition of the *Critique of pure Reason*. Eventually, objectivity is obtained in the first *Critique* through a mechanical relation involving understanding and sensibility, without leaving room for a positive interaction between consciousness and the world." (p. 244) Apart from the question whether such a modification between the two editions really exists, I think that for Hegel the problem is rather the separation between concept and intuition.

At the level of Understanding, consciousness incorporates the hidden pre-supposition of Perception in its subjective certitude. When the intuitions that Perception brings together are already understood as properties of a concept throughout,³¹ then this concept is not determined in relation to the world of appearance, but is rather determined in itself.³² The concept has already determined itself through its many properties. With the subjective certitude of Understanding, Hegel seems to introduce an alternative for one of Kant's categories of relation, namely *substance*. For in contrast to the thing of many properties of perception, the concept of understanding is not a synthesis of intuitions, but rather a self-relation, an identity of the concept that has immediately taken back its particularity into its singularity. Understanding investigates whether it can find again this identity of the concept as an identity that appears in the world of appearance. We will see, that Hegel here develops a criticism of the second part of Kant's Copernican turn (after having rejected already the first part).³³

The search of Understanding can be concretized as the attempt of the modern natural scientist to understand his law hypothesis as the essence of the world of appearance: the first truth of Understanding is that the natural laws are a "quiet realm" that can be understood as the supra-natural essence of the world of appearance.³⁴ The concrete concept is understood as the law hypothesis in which the natural law manifests itself in a manifold of variables of nature. In the scientific experiment, the hypothesis is tested on the world of appearance. Through this testing, the hypothetical concept has to *appear as material truth*.

The testing of understanding, however, results in the conclusion that the concrete concept cannot be conceived of as the essence of the world of appearance at all. Initially, the world of appearance seems to be an independent

31 PhdG, 82: "dem Bewustseyn ist der Gegenstand aus dem Verhältnisse zu einem andern in sich zurückgegangen, und hiemit *an sich* Begriff geworden."

32 Westphal (2017) remarks: "In 'Force and Understanding' Hegel argues that our concept of 'perceptible thing' is only intelligible through the concept of 'cause', which also is pure *a priori*." (p. 152). At the level of Understanding, however, there are no perceptible things at all.

33 Kant remarks: "Durch die Kategorie der Substanz aber, wenn ich den Begriff eines Körpers darunter bringe, wird es bestimmt: dass seine empirische Anschauung in der Erfahrung, niemals als blosses Prädikat betrachtet werden müsse; und so in allen übrigen Kategorien," (KdrV, B 129). Hegel, however, will show that the concept cannot appear as "*Körper*."

34 PhdG, p. 91: "Die *übersinnliche* Welt ist hiemit ein *ruhiges Reich von Gesetzen*, zwar jenseits der wahrgenommenen Welt, den diese stellt das Gesetz nur durch beständige Veränderung dar. Aber in ihr ebenso *gegenwärtig*, und ihr unmittelbares, stilles Abbild."

objectivity in which a manifold of natural forces manifest themselves as an “interplay of forces.”³⁵ The dynamics of this reality seems to contradict the quiet realm of the first truth of Understanding. Hegel, therefore, characterizes this reality as the second truth of Understanding that is governed by a law that inverts the law of the first truth: the world of appearance is not reduced to the unity of the pure concept, but rather reproduces itself as interplay of forces, namely as the ongoing process in which the forces become unequal to themselves (because they manifest themselves in natural variables) and return to their equality (because they are driven back into themselves).³⁶

From an outside perspective the contradiction of understanding can be overcome if the inverted reality of the second truth is not understood as an independent objective reality, but rather as the internal presupposition of the first truth.³⁷ The scientist can only conceive of his law hypothesis as the essence of the world of appearance, if this world has no independence, has not an own self. The natural reality to which he is related is modeled as a closed system. This closed system is a unity insofar as it is in rest: all physical variables within the closed system are supposed to be constant. The scientist, however, focusses on a limited number of variables that do not remain constant but have variable values. In this sense, what is equal in the system becomes unequal. At the same time, the variables that do not remain constant, are supposed to be related to one-another in a fixed mathematical relation. (The perceptions of the scientific experiment are basically distinguished from the perceptions at the level of Perception: experimental perceptions are quantitative and can, therefore, be part of a mathematical relation). In this sense, the system that has become unequal returns to itself and becomes equal. The inverted law of the second truth is imposed on nature by the experimental setting of the scientist.

So it appears that the first truth of Understanding necessarily has to presuppose the second truth if it wants to identify nature as concept. In the experimental setting, nature is already understood as expression of natural laws throughout. Experimental perception only specifies the laws that underlie nature. Therefore, the conclusion has to be drawn that Understanding's attempt

35 PhdG, p. 88: “Spiel der Kräfte.”

36 PhdG, p. 87: “Diese *wirkliche* Krafft vorgestellt als frey von ihrer Aeusserung und für sich seiend, ist sie die in sich zurückgedrängte Krafft, aber diese Bestimmtheit ist in der That, wie sich ergeben hat, selbst nur ein Moment der *Aeusserung*.”

37 PhdG, p. 98: “Denn in dem Unterschiede der ein innerer ist, ist das entgegengesetzte nicht nur *eines von zweyen*;—sonst wäre es ein *seyendes*, und nicht ein entgegengesetztes;—sondern es ist das entgegengesetzte eines entgegengesetzten, oder das andere ist in ihm unmittelbar selbst vorhanden.”

to affirm its certitude is a tautological movement.³⁸ If Understanding tries to identify the natural world as expression of natural laws by its experimental perceptions, it has already conceptualized nature as expression of natural laws throughout. Understanding is thrown back into itself and can only find its truth again as pure self-relation, i.e. as a subject that is related to itself.³⁹ Consciousness is transformed into the pure self-relation of self-consciousness.⁴⁰

Consciousness' attempt to acquire knowledge of the world of appearance seems to result in a Cartesian position. The substance that is known is not a thing that expresses itself in its properties, as in Kant, but is rather a pure substance, a *res cogitans* that has excluded the outside world. Finally it will become clear that according to Hegel there is no place for the categories of relation at the level of Understanding.

Nevertheless, pure self-consciousness has to be distinguished from the *res cogitans*. While Descartes deduces the *res cogitans* with the help of a doubt-experiment in which the otherness of consciousness is abstractly negated, pure self-consciousness is the result of the determinate negation in which the otherness of consciousness does not get lost. In the consciousness-chapter, the point of departure is a corporeal consciousness that thinks to immediately coincide with the world of appearance. If this consciousness tries to identify its object it concludes, after having passed through Sense Certainty, Perception and Understanding, that it can only identify its object as a pure self-identification. This conclusion is drawn from the internal perspective of consciousness. From the external perspective, pure self-consciousness still is also a corporeal self. The pure self-relation of the pure self is the form of the corporeal consciousness that is posited at itself as pure form. Consciousness' attempt to bring together many intuitions into a unity can only succeed if the many intuitions already are in an internal unity throughout. However, this internal unity can only be explicated at a formal level. At a formal level, the

38 PhdG, p. 95: "tautologischen Bewegung."

39 Eric Watkins (2012) wrongly interprets the self-relation of consciousness as a relation to an object: "Das heisst, es gibt nun ein Wechsel nicht nur im Verstand, d.i. im Subjekt oder in der Erklärung die es liefert, sondern auch im "Innern," d.i. im Objekte, das erklärt wird." He thinks that this conclusion can be drawn if Hegel states: "Indem aber der *Begriff* als Begriff des Verstandes dasselbe ist, was das *Innre* der Dinge [ist] so wird *dieser Wechsel als Gesetz des Innern für ihn*" (PhdG, p. 96). Such an explanation presupposes that there is an independent object. Consciousness, however, is not able at all to identify an independent object. "Das Gesetz des Innern das für das Subjekt ist" is the concept that has become self-conscious: self-consciousness.

40 PhdG, p. 102: "Das Schauen des *unterschiedenen* Gleichnamigen, welches sich selbst abstösst, als *unterschiedenes* Innres setzt, aber für welches ebenso unmittelbar die *Ununterschiedenheit* beyder ist, ist das *Selbstbewustseyn*."

intuitions of a corporeal consciousness already are united throughout. Therefore, the pure self-consciousness is the formal concept of the thing in itself.⁴¹

Since consciousness has become self-conscious, it now is possible to relate the external and internal perspective to one-another. In the self-consciousness-chapter the movement of consciousness is repeated in a self-conscious manner in order to enable self-consciousness to internalize the process of determinate negation in which the corporeal consciousness has emancipated itself from its body. Only at the level of the lord/bondsman relation, it becomes clear how the pure self is related to the corporeal self.

4 Self-consciousness as Self-conscious Repetition of Consciousness

At the level of desire,⁴² Sense Certainty is repeated in a self-conscious manner.⁴³ The pure self-consciousness distinguishes itself from the corporeal self that tries to satisfy its many needs in an immediate relation to the external nature. As Sense Certainty theoretically tries to unify many intuitions into the unity of the thing, so the corporeal self tries to unify many needs into the unity of the satisfied organism. The process of need satisfaction, however, is situated. The process endlessly repeats itself in time. The organism experiences again and again a multitude of needs and is never able to their final unification.⁴⁴ The organism essentially is related to the external nature and, therefore, cannot be understood as substance. This makes that from an external perspective the conclusion can be drawn that the corporeal self contradicts the substantiality of pure self-consciousness and, therefore, cannot be understood as its reality. The desire of pure self is another one than the desire of the corporeal self. The pure self can only satisfy itself if it is able to negate all strange otherness. For this reason it can only (like the Cartesian *cogito*) take on an abstract-negative

41 PhdG, p. 103: "Mit dem Selbstbewusstseyn sind wir also nun in das einheimische Reich der Wahrheit eingetreten."

42 PhdG, p. 105: "Begierde."

43 Scott Jenkins (2009, 123) remarks: "Neither Desire, nor its relation to self-consciousness is deduced, and there is no argument in ¶¶ 167–168 (or anywhere else in the chapter) for the *necessity* of assuming a natural whole within which a self-conscious subject exists." As the development of the appearing consciousness, however, there is no place in the *Phenomenology of Spirit* in which the natural whole is absent.

44 PhdG, p. 107: "Das Selbstbewusstseyn vermag also durch seine negative Beziehung, ihn nicht aufzuheben; es erzeugt ihn darum vielmehr wieder, so wie die Begierde."

relation to the corporeal self. At the level of desire, the concept (the I=I or the pure-self-consciousness) and the world of appearance exclude one-another.⁴⁵

At the second level of self-consciousness, the struggle of recognition for life and death,⁴⁶ Hegel resumes Perception. As, at the level of Perception, the situatedness of the thing is explicated, so, at the second level of self-consciousness, the situatedness of life is explicated. Once again the pure self-consciousness is related to life, but this time it is life that belongs to another self-consciousness. The situatedness of the appearing life is articulated as an organism in the middle of other organisms: each organism unifies its specific needs. At the same time, the other life is taken as a life that also has a pure self-consciousness. Therefore, pure self-consciousness tries to realize its essence in the other life. Since the pure self-consciousness is also a corporeal self-consciousness itself, the other life is related to this self-consciousness as the pure self-consciousness is related to the other life. For this reason, pure self-consciousness' attempt to realize itself appears as mutually symmetrical action. Hegel characterizes this action as the struggle of recognition for life and death. For the living organism can only show that its internal substantial essence is pure self-consciousness if its actions do not serve its real satisfaction of needs, but rather its pure self-consciousness. However, as long as the organism lives it is not able to prove this. Therefore, the second stage of self-consciousness is ruined by a contradiction that is similar to the contradiction of perception. As perception was not able to bring together the one and the also (because it was not able to understand real intuitions as excluding properties), so self-consciousness is not able to bring together pure self-consciousness and real life (because the real needs cannot be considered at the same time as pure self-determinations). Therefore, the conclusion must be drawn that the reality of pure self-consciousness cannot be conceived of in relation to another pure self-consciousness (that appears as a corporeal self-consciousness).

At the third level of self-consciousness, the lord/bondsman-relation (PhdG, p. 112 ff.), Understanding is resumed. Understanding sublates the contradiction

45 Pippin (2011) remarks: "I want to argue, that when Hegel says that self-consciousness is "desire überhaupt" he means that to be relevant to the question of the apperceptive nature of consciousness itself; and that *thereby* he provides the basis for the claim that self-consciousness attains its satisfaction only in another self-consciousness." It is completely non-sense that self-consciousness in Hegel has an apperceptive nature. Self-consciousness attains its satisfaction only in another self-consciousness because only in this relation its freedom is thinkable. In a free relation otherness can be conceived of as it is in itself. This has nothing to do with a relation of apperception.

46 PhdG, p. 111: "Das Verhältniss beyder Selbstbewusstseyn ist also so bestimmt, dass sie sich selbst und einander durch den Kampf auf Leben und Tod *bewähren*."

of perception by determining the concept as a self-determination that already precedes the world of appearance throughout. In the same way, the contradiction of the struggle of recognition for life and death is sublated by determining the life to which self-consciousness is related as the good life, i.e. as the social life that already has made the autonomous self-consciousness its essence throughout. In the relation of the pure self to the good life the first truth of Understanding is retaken. In the first realm of Understanding the world of appearance is theoretically posited as expression of a quiet realm of laws. Here, the world of appearance of social life is practically made the expression of an autonomous law, the law of the lord.

This transition asks for explanation. How precisely the contradiction of the preceding stage is overcome? Why, at this level, the appearing life can nevertheless be understood as the appearance of pure self-consciousness? The problem was that the pure self-consciousness did not seem reconcilable with life and asked for the sacrifice of life. This problem has been solved by understanding the pure self-consciousness as an institutional self-consciousness that has survived so to say the death of the real self-consciousness. This institutional consciousness (that Hegel characterizes as the law of the lord) stands for the autonomous law that underlies the free community.

The law of the lord is served by the pure self-consciousness that still is absorbed in the reality of its organism (characterized by Hegel as the self-consciousness of the bondsman). This service transforms reality into the "second nature" of the good life and makes that the first truth of understanding is practically resumed. This, however, does not clarify why the bondsman serves the lord or why the bondsman is able at all to serve the lord. Especially as bondsman, the free self-consciousness is submerged in life what justifies the expectation that it satisfies its needs. These questions can only be answered if it is clear that also the second truth of Understanding is resumed in the lord/bondsman-relation.

As corporeal self, the bondsman participates in a process of life that can be characterized as the interplay of forces between earth and the organism. As unity, the organism is the force that is forced back into itself. This force expresses itself if the organism in the satisfaction of its needs is related to the outside nature (namely the earth). Having satisfied its needs the organism returns to itself as the force that is forced back into itself. Reversely, the earth is the force that is forced back into itself when it provokes the neediness of the organism and is the force that expresses itself when the needs are satisfied. Therefore, the second truth of Understanding is practically performed in the process of life: the organism becomes unequal to itself and returns from this inequality to its being equal to itself.

The thinking through of the internal unity of the first and second truth of Understanding resulted in the relation of the I=I, the pure self. In the same way, the thinking through of the internal unity of the practical version of the first and second truth of Understanding results in the I=I that practically realizes itself. Hegel clarifies this movement in his exposition of the fear of death that the bondsman has already experienced throughout.

An organism experiences the fear of death if it is confronted with the absolute lord, namely with death. At the moment of the fear of death, the organism is confronted with an absolute, superior power.⁴⁷ It is no longer able to appropriate the world to which it is related and to satisfy its needs. The superior power of the external world does not allow this any longer. Therefore, the organism that experiences the fear of death is characterized by Hegel as the force that is forced back into itself.⁴⁸ The interplay of forces of the reproduction process is suspended and is fixed in an absolutely being thrown back into itself. If the organism is also a self-consciousness, the fear of death can, according to Hegel, under special circumstances result into the explicit insight of the organism to be itself a self-consciousness indeed.

The experience of the fear of death clarifies in the most elementary way how Hegel thinks to conceive of the unity between the pure and the corporeal self. As corporeal, the self is involved in the interplay of forces of the process of life. In this interplay of forces the structure of the concept is practically expressed.⁴⁹ In the experience of the fear of death, the Cartesian doubt experiment is so to say practically performed. The pure self is separated from its corporeality and thrown back in itself as pure self-relation. However, in its relation to its body the pure self cannot reach the consciousness of its pure self because this presupposes that it is already separated from its body throughout. It only could, so to say, become aware of itself if it dies. Therefore, the self-experience of the pure self in a certain sense presupposes the overcoming of death. Death cannot be overcome at an individual level, but rather at an institutional level. The individual dies, but the institutions survive. Hegel introduces the institutional dimension if he states that the pure self can only become aware of itself in relation to the lord. In his recognition of the lord, the bondsman makes the pure self, i.e. the force that is forced back into itself and posited at itself, its object. For him, the lord is nothing else than the reality of

47 PhdG, p. 114: "die Furcht des Todes, des absoluten Herrn."

48 PhdG, p. 114: "sie wird als in sich *zurückgedrängtes* Bewusstseyn in sich gehen."

49 Hegel determines the concept as the dialectical unity (Einzelheit) between Universality and Particularity. In the process of life, this structure is practically realized. The living individual (Einzelheit) is practically reproduced in the relation between the particular individuals that behave themselves as sexual members of the species (Universality).

his pure essence.⁵⁰ From an external perspective, the I=I relation is realized at the level of the lord/bondsman-relation.

Now, it can also be understood how this practical realization of the I=I relation is the synthesis of the practical realization of the first and second truth of Understanding. We saw how in the work of the bondsman the first truth of understanding is practically realized. This realization is bound to an internal presupposition, namely that the self-consciousness of the bondsman has already experienced the fear of death throughout. This means that nature to which the bondsman is related is the living nature. For in the fear of death the bondsman has experienced himself as the force that is forced back into itself. Therefore, nature that is cultivated in the labor of the bondsman is not nature in general, but rather nature that is bounded to specific presuppositions. As the scientist in his experiment is not related to nature in general, but rather to nature that is posited in an experimental setting (a closed system), so the same is valid for the working bondsman. The nature that he cultivates is involved in a systematic coherence: it is the nature that is posited within the telos of life. Therefore the labor product of the bondsman is not a particular useful thing, but rather the good life, i.e. the objectivity of the second nature that becomes valid as the expression of an autonomous law, namely the law of the lord. Therefore, the labor of the bondsman can not only be understood as the practical realization of the first truth of Understanding, but also as the practical realization of the second truth of Understanding, i.e. the becoming unequal of what is equal and the becoming equal of what is unequal. In the labor of the bondsman the good life falls apart into a multitude of labor products (the becoming unequal of what is equal) and are the many labor products unified in the realization of good life (the becoming equal of what is unequal). The law of the lord who is served is not the realization of the pure self throughout, but is the condition under which the good life can be given a specific historical form. The essence of the law of the lord is the pure relation of recognition that can never be fully expressed in a specific law.

5 Conclusion

We can now understand how the pure self-consciousness is related to the corporeal self and which alternative Hegel has developed for the Kantian synthesis

⁵⁰ Therefore, self-conscious that has experienced the fear of death (the absolute lord), can only become aware of its fear in relation to the lord of the human law. In this sense I cannot agree with Elisa Magri (2016, 251) when she states: "Anxiety [her translation of *Angst*, p.c.] is a feeling that lacks any positive relation to the other."

between understanding and intuition. Kant fails in his attempt to understand the objectivity of the object of cognition as the way in which the manifold of intuitions are brought into unity. The synthesis that understanding imposes to intuition remains external and, therefore, cannot be grounded in the transcendental subject that must be able "to accompany all my representations."⁵¹ The identification of the object rather has to be conceived of as self-identification and the transcendental subject rather has to be understood as the identity of an "I" that is related to itself and does not borrow its substantiality to the world of appearance. In contrast to Descartes' *res cogitans*, this pure "I" is not a substance that can be separated from the world of appearance as a second substance, but rather is the pure form of the corporeal consciousness that is posited at itself.

In the relation between the pure and the corporeal self the relation between understanding and intuition seems to return in a certain way. The fundamental difference is, however, that now the corporeal self is understood as a living self. For the living self the world of appearance is not an external multitude, but rather a multitude that in the practical process of life again and again is unified. The process of life has the structure of the concept that is practically realizing itself. This concept is internalized by the bondsman in its pure form and acquires its self-conscious form in relation to the lord. Finally, the pure "I" is understood as the pure recognition that appears in the historical form of the good life. Only the good life can be understood as the appearance of substance. Only in the lord/bondsman-relation the forms of relation are developed that at the end can be understood as Hegel's categories of relation.⁵²

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⁵¹ "Das: *Ich denke*, muss alle meine Vorstellungen begleiten können" (KdRV, B 131/2).

⁵² "Reality' passes through three stages in its development, which can be considered Hegel's version of Kant's categories of relationship" (Paul Cobben, 2003, p. 203). "The *Enzyklopädie's* logic of reality can be recovered as the servant's 'reality' in Lordship and Bondage." (p. 203).

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The Religion of the God-Man: Hegel's Account of Revealed Religion in the *Phenomenology of Spirit*

Arthur Kok

1 Introduction

There is little doubt that Kant's concept of morality has captured everything that is great about the Enlightenment with such intellectual profoundness as well as political and social engagement that it is absolutely without precedent or comparison. Nevertheless, Kant's philosophy did leave us with a dualism between theoretical and practical philosophy. There is a gap between boundary-setting purpose of transcendental philosophy and his practical philosophy which purpose it exactly is to go beyond these boundaries of theoretical reason, opening up a domain of pure practical reason: the domain where the moral subject resides. I regard Hegel's *Phenomenology of Spirit* as an attempt to identify the precise nature of Kant's dualism between theoretical and practical reason, as well as to overcome it. It is critical of Kant but first and foremost in the sense that it completes the philosophical project that Kant initiated.

In general, I favor the view that Hegel's analysis and reception of Kant is far more subtle than Hegel is often given credit for, even in cases—or rather: especially in those cases—where Hegel's supposed absolute monism is presented as superior to Kantian dualism. (Cf., e.g., Pippin 1989; Houlgate 2005) Drawing such oppositions are quite bold and do not do justice to the fact that Hegel gives a highly differentiated account of Kant's philosophy at several place in his philosophical oeuvre. However, precisely the topic that I am going to present here, viz. autonomy in relation to Christianity, urges me to point out what I think constitutes a genuine systematic difference between Kant and Hegel: their concept of religion.

I argue that the way in which Hegel handles the concept of religion in the *Phenomenology*—in other works as well, but I will not discuss them here—is decisively distinct from Kant's handling of religion in his late works. From Hegel's discussion with Kant in the morality chapter of the *Phenomenology*, it becomes clear, I argue, that he rejects Kant's concept of religion, and that he develops a quite different conception. The proposition of this paper is to read

the morality chapter as a prelude to the religion chapter, in which Hegel presents a systematic account of religious consciousness; hereby focusing on the third subchapter about *revealed religion*, arguing that Hegel reflects the (Kantian) position of morality in this chapter. It is in this fashion that I view Hegel's phenomenological account of Christianity in relation to Kant's concept of the autonomous subject as an attempt to overcome Kant's dualism.

2 Hegel's Kant-critique in the Morality Chapter of the *Phenomenology of Spirit*

One of the main arguments of Kant's practical philosophy is that we cannot determine whether our actions are morally good or not. We have no objective knowledge about what drives our actions, hence our conception of what is morally good—Kant does not deny that we have such conception—can never be confirmed by reality. Instead of unmasking the objective validity of the morally good, as many philosophers after Kant have done, Kant argues quite brilliantly in the *Critique of Practical Reason* that one actually has to do the exact opposite: the undisputed validity of the morally good limits all other validity claims: Both our senses and our understanding, being equally incapable of grasping the morally good, are merely finite capacities and hence not allowed to disqualify the morally good.

In his “On the deduction of the principles of pure practical reason,” (Kant, AA 5:42–50) Kant makes very clear that if the understanding is given the choice between rejecting the existence of free will or eliminating itself as a criterion for determining the validity of this existence, the only reasonable choice to make is to eliminate itself. This separation between the understanding and reason is highly valued by Hegel for two reasons. Firstly, because the fundamental insight that freedom cannot be conditioned by any other thing, but is itself the condition of everything else; and secondly, because this freedom cannot exist as an immediate and graspable reality, because an immediate reality leaves no room for the difference that is required for individual moral freedom. In Kant, the autonomous subject becomes the rightful arbiter of the world, the decider about good and evil—without question a necessary condition for modern subjectivity and freedom, and this is true for Hegel too.

Nevertheless, there is a tension. Defining freedom as something ungraspable also disconnects it from the real world. As an external arbiter, the autonomous subject remains opposed to the real world that appears as the sphere of action. The moral subject ought to judge and it is able to do so, but it cannot

alter reality to ensure that the morally good is indeed realized. The unity of being morally worthy of happiness and actual happiness cannot be guaranteed by the subject. Hence their correspondence is projected outside of the autonomous subject in a divine being, an intelligible creator or author of the world. Though it is a necessary reflection for any reasonable being that it must assert the existence of such entity for acknowledging its physical existence as being possibly worthy of happiness, there is no knowledge and no certainty whether such supreme being in fact exists. It is a matter of faith and belongs to the domain of hope. In his concept of religion, Kant draws the consequences of this position. His infamous expression that “morality thus inevitably leads to religion” means that religion introduces a concept of world that is in itself directed at making moral action possible. (Kant, *AA* 6:6; cf. Kok 2016) God becomes the moral lawgiver, the subject-transcending external guarantee for the realization of freedom. Still, the religious world remains conditioned by the *as if*, it is a necessary imagination in the service of practical reason rather than a means to broaden the scope of knowledge.

Therefore, when Hegel examines Kant's position in the Morality chapter from the *Phenomenology*, his main object of criticism is that this conception of God as moral lawgiver is ambiguous, and in the end contradictory. (Hegel, *PhG*, 364) In fact, I argue that the entire morality chapter can be summarized in one single sentence: Kant's concept of religion is not yet a concept of what religion is in itself. The transition from morality to religion, which Hegel thinks is necessary as well, is not completed by Kant. Kant remains stuck in an opposition between religion and morality, and hence cannot think the true unity of religion and morality.

My first argument to support this is exegetical. Hegel writes:

For in the Notion of the moral self-consciousness the two aspects, pure duty and actuality, are explicitly joined in a single unity, and consequently the one, like the other, is expressly without a being of its own, but is only a *moment*, or is superseded.

HEGEL, *PhG*, 371

This sentence, in which Hegel analyses the postulate of God in relation to the moral worldview, is a surprisingly affirmative evaluation of the moral consciousness in the sense that the pure duty and actuality—i.e., the ideal and the real—are indeed unified in the moral concept of God as moments of the same unity. Nonetheless, a few lines later it becomes clear what the fundamental shortcoming of this position is:

For the moral consciousness itself, however, its moral view of the world does not mean that consciousness develops therein its own Notion, and makes its this object. It is not conscious of this antithesis either as regards the form or the content; it does not relate and compare the sides of this antithesis with one another, but, in its development, rolls onward, without being the *Notion* which holds the moments together.

HEGEL, *PhG*, 372

In my view, this is the key to understanding Hegel's very subtle critique of Kant: on the one hand, the moral standpoint is *de facto* the absolute position, because it does justice to the unity of the real and the ideal as well as the difference between them (this is what Hegel actually says); on the other hand, however, the moral viewpoint is *not conscious* about what it is, it has no object of itself—in that sense it is not an absolute position, because the absolute position requires self-consciousness about what it is. In other words, the moral consciousness fails because it is not able to conceive of what it is in itself, an absolute position. Consequently, the contradiction of morality is that has no object that adequately expresses what it is in itself, and the transition into the next shape of consciousness logically entails the introduction of an object that indeed vindicates the truth of morality. This is the basis of Hegel's concept of religion.

My second argument is more systematic. The point of departure of the morality chapter is the individual consciousness that knows itself to be the holder of an absolute certainty, viz. that it is free to the extent that it realizes its moral duty. Whereas the content of the moral duty is the Self of the moral consciousness, the relation of consciousness to its duty is a pure self-relation. The question is whether the individual consciousness can realize this pure self-relation. The answer is no, because as an individual consciousness it relates to an external nature from which the pure self-relation exists independently. This however contradicts the supposed absoluteness of the content of the moral duty.

Through the course of the morality chapter, Hegel constructs several attempts of the individual consciousness to relate to external reality in order to overcome this problem, and each time, the externality of reality keeps the individual consciousness from succeeding.

At first, it seems as if the individual consciousness can overcome the externality of nature by becoming *conscience*. As conscience, individual consciousness views nature and its manifoldness as irrelevant for the determination of concrete moral action. It is "the moral genius which knows the inner voice of what it immediately knows to be a divine voice." (Hegel, *PhG*, 397) However, this absolute self-certainty of individual consciousness is in fact kept in place

by a community. It is *conviction*, a speech-act rather than the substantial truth it claims to be, and the language that is needed to express this conviction is an intersubjectively shared one. As such, there is a relation to others, not external nature but other people. This relation of an intersubjectivity shared conviction that morality is realized in their actions is what Hegel calls the *beautiful souls*. It is a purely formal recognition that pretends to exist as if reality does not matter, but the certainty that reality is irrelevant can only be upheld by actively keeping reality at distance, because "to preserve the purity of its heart, it flees from contact with the actual world." (Hegel, *PhG*, 400)

Therefore, on reflection, this position is opposed by another moral consciousness, that of the hard heart, that unmasks this purity as hypocrisy: the proclaimed purity of the beautiful is merely *posited*, and it is action, which is never pure. This opposition between the beautiful soul and the hard heart fixes itself into an absolute opposition that reveals the general deficit of individual consciousness; that it is subjective, either with regard to its self-positing or with regard to its characterization of what action is. The consequent breaking of the hard heart means that when the individual consciousness recognizes itself as an universal consciousness, the opposition between the subjective determination of action on the one hand, and the subjective characterization of action as necessarily something impure on the other, is sublated. This means, however, that the individual consciousness has no existence in itself altogether. The "word of reconciliation" that Hegel introduces at the end of the morality chapter is not an individual *subjective* consciousness but "the *objectively* existent Spirit." (Hegel, *PhG*, 408)

This objectively existent spirit is, so to say, the hidden presupposition of the moral consciousness. It means that individual consciousness only exists in the context of a community and that this community is not the result of a collective self-positing of individual consciousnesses. Instead, the community is an object for consciousness as something that is always already given to it all the time. The recognition of the absolute spirit as something that is not just the content of the moral law, but as something that actually objectively exists, is what calls religious consciousness. Religion is the *appearance of the absolute*. In comparison to Kant, religious consciousness is not presented by Hegel as the imaginative production of a moral subject, but necessarily a real community that commits itself to an objectivity of which it believes that it is the actual presence of the absolute.

Even though Hegel of course has no intention of attributing real knowledge to religious consciousness, his point is that the production of religious imagination cannot be a subjective activity, but is always the activity of a communal spirit: of a *people*. From the beginning, he makes clear that religion is the

self-consciousness of a community, i.e. the divine object of worship reflects—in a less or more developed fashion—what the community is in itself. The relevance of the religion chapter is that it has to become explicit for consciousness itself that the object of worship is in fact produced by the community. In religion, the community recognizes its Self-being in the form of otherness.

3 Hegel's Account of Christianity as Revealed Religion

These considerations set the stage for reconstructing Christianity as the appearance of the autonomous subject. In the third shape of religious consciousness, *revealed religion*, the appearance of the absolute spirit is no longer opposed to what the spirit is in itself. (Hegel, *PhG*, 453 ff.; cf., e.g., Menegoni 2008, Vieweg 2008, Appel 2018)

The nature of the appearance is neither a natural or sensibly given thing, as is the case in the natural religion, or a manufactured work of art, as it is in the religion of art. For both these forms of religious consciousness the problem is that the Self exists outside of the appearances that function as a representation of the absolute substance—as long as the Self remains external to the absolute substance, there remains a contradiction between the substance and its appearance. In the revealed religion, this contradiction is resolved because the substance now appears as a Self, viz. as an absolute being that is both human and divine.

Here, the meaning of revealed religion as the religion that conceives of truth as something that is *revealed* to us, acquires a very specific meaning. Although the basic idea of something being revealed constitutes, at first sight, a rather formal criterion, more about the way we look at things than about what these things are in themselves, Hegel clearly has in mind not the thing that is being revealed but the thing that reveals itself, and this thing cannot be just any random entity. Precisely the activity of revealing has to be understood of as an activity of the Self that results in the appearance of the Self without the Self becoming something other than itself. The thing that appears as the thing that it is in itself, necessarily is a thing that has the shape of a Self. As such, only a thing that is both human and divine can count as a proper object for revealed religion. Consequently, the only possible object of the consciousness of revealed religion is the God-man.

Hegel stages the historical appearance of the religion of the God-man, Christianity, as a consequence from the decline of the Roman Empire. In my view, the decline of the Roman Empire signifies the definitive loss of tradition that began in the Greek world of the Polis. In the developmental structure

of the chapters in the *Phenomenology* on Spirit, the Roman Empire forms the transitional phase from the ethical world of the Polis to the self-alienated spirit or the realm of culture. (Cf. Hegel, *PhG*, 290 ff.) The self-alienated spirit is opposed to the ethical spirit in the sense that the consciousness of ethical spirit recognizes the actual society, in which it lives, as an adequate realization of freedom. At this stage, the societal structure consists in the horizontal recognition of the citizens: They recognize themselves and each other as being free and equal. This mutual recognition is consciously upheld by all citizens by acting in correspondence to the human law.

3.1 *Stoic Consciousness and Unhappy Consciousness*

Their conscious relation between their actions and the human law—i.e., between form and content—has the shape of the *stoic self-consciousness*. (Cf. Hegel, *PhG*, 119 ff.) For the stoic self-consciousness, the concepts of reality immediately express what reality is in itself. Here, form and content are unseparated, the content of the human law determines the acting Self, and freedom is only conceivable by serving the human law. It is a conception of freedom, which is perhaps comparable to what we would call positive freedom today. According to Hegel, it is obvious from the beginning that the stoic self-consciousness is full of tension. It ascribes absolute meaning to concepts that are at least partially contingent, like the rules of the Greek Polis, and hence conceives of a historical society as something absolute and thus ahistorical.

Although it is true that the laws of the Polis are absolute insofar as they express the recognition between free and equal citizens, they are also specific historical laws; and to that extent, they are not absolute. Hence the tension of the stoic consciousness is also the tension of ethical spirit. (Cf. Hegel, *PhG*, 266 ff.) The best way to explain this is in terms of lord and bondsman.

The citizen of Polis, who is realizing his freedom by serving the law, can be compared to the bondsman that serves the lord. Firstly, the bondsman experiences this servitude as freedom because the lord symbolizes its freedom, but the truth of this freedom—i.e., the reason why the lord is a symbol of freedom—is not the lord's function as someone who is being served: its truth is the act of serving. Secondly, this act of serving is the ability to serve an external law, and it is conditioned by the inner freedom to restrain inclinations. Thirdly, if the freedom expressed in ethical spirit is this inner freedom, it can never be fully grasped by any historical law, because it is impossible to have a symbolic representation of the lord that is adequate to a specific historical appearance of freedom.

In other words, the freedom that is realized in the ethical spirit is, at the same time, external to ethical spirit. However, from within the consciousness

of ethical spirit, it cannot be accepted that there exists externality for the Polis. As a result, the externality that nonetheless belongs intrinsically to the world of the Polis presents itself as an absolute contestation of the human law. From a further developed philosophical perspective, it can become conscious that, which looks like the manifestation of an external power coming from outside of the human realm, is in fact the power of the Self. Still, this is not for the consciousness of ethical spirit. Moreover, how an external power and the power of the Self can be the same is not *for us* either. This is the contradiction that has to be solved.

To be able to make the development that is necessary to acquire insight in the absolute Self, the most important requirement for consciousness is that consciousness must recognize that there exists a power external to its reality. Therefore, the stoic consciousness must make the transition into the *unhappy consciousness*. (Cf. Hegel, *PhG*, 126 ff.) The unhappy consciousness is the consciousness that recognizes that the essence of reality is separated from the objectively given world. The essence of reality is a supersensible entity, ungraspable and not in correspondence with our concepts and determinations of reality.

The transition from the stoic consciousness into the unhappy consciousness is mediated by the position of skepticism. Skepticism is the act of absolute negation: the possibility to claim the exact opposite of any possible truth claim. Thus rejecting the correspondence between concepts and their objects, it is opposed to the stoic consciousness. Nevertheless, it shares with the stoic consciousness that it does not give up the certainty of the Self either. Quite the contrary, the skeptic consciousness regards itself as the absolute arbiter of truth. This self-positing of the Self as an absolute Self is indeed the hidden presupposition of the stoic consciousness—which is unaware of the fact that the correspondence, which it thinks it discovers between the concepts and reality, are as a matter of fact not found but imposed by consciousness—but precisely for this reason the skeptic consciousness is not a valid position either.

In the end, the skeptic consciousness is an idle consciousness, because it still thinks it can decide about the truth. This conviction is grounded in the pure self-certainty that fends off externality or otherness as a constitutive moment of selfhood. Consciousness only completes the transition into the unhappy consciousness when it gives up this self-certainty, which is done by acknowledging that the Self of the consciousness is not in any way contained within consciousness.

For the unhappy consciousness, therefore, the external power is no longer an abstract force but the true Self, in and through which everything else exists. This awareness tears up consciousness in the deepest and most radical way

imaginable. Consciousness' Self becomes literary disassociated from the reality of consciousness, the latter is reduced to mere appearance, and consciousness experiences an absolute loss: the loss of the Self. Its identity with itself is taken away from it and displaced in the unreachable realm of otherness of the *Beyond*.

In my view, it is particularly important to emphasize that the disassociation of consciousness from consciousness' reality and the displacement of the Self in a supersensible realm constitute two distinct moments of the unhappy consciousness. Although the two are evidently connected, since the displacement of the Self suggests an absolute disassociation between consciousness and the Self, it is important to note that—despite disassociating and reducing consciousness' reality to mere appearance—the unhappy consciousness still holds on to this Self. That a loss of selfhood could result in a purely ideological consciousness that is deprived of every possible attachment to its self-being, makes no sense from a dialectical developmental perspective.

3.2 *The Stoic Consciousness in the Roman Empire*

It makes sense to understand Hegel's idea to situate rise of the revealed religion in the historical context of the downfall of the Roman Empire along the lines of the transition from stoic consciousness to unhappy consciousness. Hegel mentions the unhappy consciousness in the subchapter on revealed religion, and the fact that his understanding of historical Christianity in the Realm of Culture as having the form of self-alienation indicates that Hegel regards the unhappy consciousness as the adequate shape of consciousness for revealed religion as well. The more problematic statement in this picture is to connect the Roman Empire to the stoic consciousness.

At first sight, it may seem questionable to conceive of the Roman Empire as a form of stoic consciousness. After all, the Roman Empire is the result of the decline of the Polis. It is the state of law, the legal world, which came about because the ethical world was unable to hold form and content together: the mutual recognition between the free and equal citizens had the shape of historical laws—i.e. laws that belong to a specific tradition—are making room for a purely formal law, the sphere of legality.

On the one hand, the state of law resolves the contradiction between the absoluteness of the law—i.e., its freedom and equality—and its historicity, because the laws of society are no longer understood as laws of a specific tradition. In the legal world, the free and equal citizens are not conceived of as natural individuals but as legal persons. The legal person is a formal Self that “sets free” any content. This separation between form and content is characteristic of the state of law, and it is exemplified by the Roman Empire.

On the other hand, however, the premise of this separation is that the content of the law is irrelevant because its universality and absolute validity is upheld by its form. This indifference towards the content of the law originates from the conviction that there is an correspondence between reality and the Self. The Self that can be indifferent towards the content of the laws of society, is a Self that is not alienated. However, the Self is not conscious about the fact that this correspondence does not exist independently from the content of the law. In reality, the correspondence is mediated by a social nature that is historical as well. It is characteristic of Hegel's conception of the Roman Empire that there is no consciousness about the social and historical conditions of the correspondence between the Self and reality. For this reason, the Roman Empire is—within the systematic development of the *Phenomenology*—a historical realization of the stoic consciousness.

The Self of the Roman Empire and the substance of the state of law is the Roman emperor, the Lord of the World. From our perspective, the Lord of the World is the highest shape of the stoic consciousness, the last attempt to uphold the certainty that freedom can be fully realized in a specific historical society. But whereas this certainty is based on the (unconscious) denial or repression of historicity in general, it is only a matter of time before these contingencies will manifest themselves in a society with such a self-consciousness; and when they do, they will necessarily appear as a destructive force in the eyes of this society, because they are external to the stoic self-understanding of such a society.

This is the logic of history as Hegel sees it in the *Phenomenology*. In his view, no society can claim to have completely realized absolute freedom. Every real society is a particular finite expression of freedom. Moreover, the insight in the ongoing difference between the absolute in its realization is not given to us a priori, but it must be learned through a historical process. Firstly, the inadequateness of a particular society to completely realize freedom must be experienced; secondly, the truth of this experience must be internalized by society.

So for the Roman Empire, it seems, at first, as if the decline of society is caused by external powers—e.g., by the barbarian tribes that brought down ancient Rome. The eternal rest and immobility of the state of law is opposed by a just as incessant restless power struggle. The unity of these two elements—the unrest of the power struggle versus the rest of the state of law—seems inconceivable at first. However, what must be learned is that they are one: two moments of the same absolute essence. That, which appears to be a blind and external force, seemingly targeted against the Self, is in fact the inner power of the Self.

As a result, the downfall of the Lord of World prepares the rise of the religion of the God-man, because that the downfall signifies the rebellion of reality itself against the Self, causing it to displace itself in another world. At the same time, this rebellion is an act of the Self. Importantly, in this entire movement of becoming other than itself, the Self remains identical to its Self: its alienation is self-alienation.

3.3 *The Image of the God-man*

So, when Hegel stages “the birthplace of spirit” in the context of the decline of the Roman Empire, the logic behind it is that what presents itself as a historically contingent chain of events that cause the Roman world to collapse, is, from another perspective, the self-realization of spirit. In the chapter on revealed religion, this other perspective is observed under the viewpoint of the representing consciousness. In other words, the perspective is tied to a particular object; in this case, an object—or better: an objectivity—that represents the absolute as the self-realization of spirit, the God-man.

From a comprehensive philosophical standpoint, it is already clear that at this stage of the phenomenological development of consciousness, we understand that the self-realization of spirit is that substance is subject. The God-man thus is the appearance of substance as subject, and the particular individual Self that is identified as the God-man—e.g., Jesus Christ—is at the same time a general Self. Nonetheless, this appearance is far from evident because it is full of tensions.

Firstly, the God-man is both distinct and not distinct from those who identify him as the God-man. Secondly, the God-man represents the self-realization of spirit, but as a particular individual it has a sensible existence. He initially appears as the immediate unity of the human and the divine, and hence not as movement. However, thirdly, the appearance of the God-man establishes the presence of the divine in this world that overcomes the suffering of the unhappy consciousness by bringing the otherworldly Self back into the real world. The appearance of the God-man is the self-realization of spirit also in the sense that the otherworldly divine *reveals* itself by becoming a truly sensible and touchable reality, a real human being, that reconciles the two worlds that tear up the alienated Self.

These tensions indicate that we still have to understand the revealed religion as a shape of the unhappy conscious. However, in the revealed religion, it becomes clear in what sense the Self, which has gone through the experience of absolute self-loss, has not disappeared for consciousness. Revealed religion shows that the unhappy consciousness can still have an image of the Self: the image of the God-man.

As a result, the image has a double meaning. For example, it is said about Jesus Christ that he is an actual person, the incarnation of God and the son of God, but it is also said about him that he is not of this world. So even though there is an image of reconciliation between the divine world and the human world, there is no actual reconciliation. According to Hegel, the immediate presence of the God-man is problematic in the end, because the religious consciousness, for whom Christ is the God-man, may be able to see, feel or even touch the self-realization of spirit, it remains external to it: the God-man remains opposed to the people who regard him as such.

3.4 *The Problem of Evil*

In general, the outset of the revealed religion is that there is an image of the self-realization of spirit as the reconciliation between the absolute Self and the real Self, but the reality or truth of this reconciliation has not been acquired yet; particularly because the immediate presence of the God-man lacks the mediation necessary to understand the reconciliation. This shortcoming manifests itself in the fact that the religious consciousness, which has an image of the God-man, is itself separated from this reconciliation, because it does not yet recognize that consciousness itself is the place of reconciliation. For Hegel, it is not enough for consciousness to have an image of reconciliation. Consciousness must also understand that actual reconciliation takes place through its own activity, not the activity of another being outside of consciousness.

So, from the broader perspective of the *Phenomenology*, it makes sense to read the chapter on revealed religion as the emancipation of religious consciousness into the philosophical consciousness that recognizes absolute spirit as it is in itself. (Cf., e.g., Vieweg 2008) On the one hand, religious consciousness itself cannot be an endpoint, because it stands outside of the absolute that it cognizes, which is a flat contradiction. On the other hand, particularly in the case of revealed religion, the religious image of the God-man is emancipatory, because it is not an imaginary projection but a genuine mirror: It reflects the Self of consciousness as it is in itself, i.e., consciousness sees itself *in speculo*. In this way, the narrative of the God-man—including his death and resurrection—contains absolute truth, but in a hidden form.

The emancipation of consciousness from religion to philosophy is one that begins with immediacy and slowly uncovers the structure of mediation. According to Christian tradition, Jesus is conceived by a divine father and a human mother. Hegel emphasizes that despite this reference to natural biological relations, there is nothing natural expressed in them. It concerns a purely spiritual matter: the self-realization of spirit. Therefore, expressing the truth of the

God-man requires a purely spiritual language that is adequate to the content. This is the language of the concept. The immediate presence of the God-man gradually makes place for the Trinitarian structure of the father, the son and the Holy Spirit, increasingly immaterializing and spiritualizing the self-realization of spirit. Through this development the God-man becomes more and more concrete, because it becomes more and more what it is in itself, viz. spirit.¹

In the death of Christ is becomes evident that relation of recognition is not guaranteed by the God-man but only by the community that remembers him. Their language now becomes the reality in which the self-realization of spirit is expressed, as the story of the life of Christ. As language, the immediacy of the actual existence of the God-man is broken, and its truth—to be mediation—can come to light. However, the language in which the truth of spirit is expressed, is still very much a natural language. Rather than exposing the conceptual relations in terms of their necessity, it constructs stories of contingent occurrences.

Here, Hegel analyses that the structure of mediation first appears in the story of the fall of man, or the fall into sin. The immediacy of nature is broken, but the mediation appears as the problem of evil:

This self-consciousness is *natural spirit*; the self has to withdraw from this natural existence and retreat into itself, which could mean, to become *evil*. But this side is already *in itself* evil; its withdrawal into itself consists, therefore, in *convincing itself* that natural existence is evil.

HEGEL, *PhG*, 474

Hegel points out that although Adam and Eve broke the law of God by choice, the presence of the snake indicates that evil already existed in the Garden of Eden; therefore, evil is not external to the divine world. The Christian belief that appears here is not focused on returning to the Garden of Eden, but instead focuses on the coming of the messiah, the God-man that will save

¹ We can ask ourselves though, what can be more concrete than an actual human individual? I would answer that indeed nothing is more concrete than a human individual, but that the essence of a concrete human individual is that it stands in a relation of recognition. In the case of the recognition of the God-man, the relation of recognition lies on the side the religious consciousness, which is considered by the religious consciousness as unessential. By doing so, it precisely places the actual human being, which it is in itself, outside of itself and projects it in the God-man.

mankind from sin. This salvation history clearly has the structure of mediation, and Christian mythology even projects this mediation back into the divine world by imaging Christ as taking the place of “the first-born Son of Light,” i.e., the fallen angel Lucifer. (Hegel, *PhG*, 468)

Still, the consciousness of revealed religion keeps the mediation that is now called evil outside of the essence of the divine. The distinction between good and evil appears as the distinction between the community as mankind that has fallen into sin on the one hand; and the God-man as the Savior who conquers and overthrows evil on the other. This shape thus has the form of the unhappy consciousness because the Self of the community is projected outside of the community in a pure Self.

However, the structure of projecting itself outside of itself is the mediation and negativity that the community unknowingly executes by itself—i.e., it is self-mediation and self-negation. According to Hegel, the truth of the pure Self—represented as the God-man—is this self-negation. This truth that the pure Self is the self-act of the community, becomes for itself in the death of Christ. His death is no ordinary death, but one that redeems mankind from sin. Hegel’s philosophical appropriation of the death of Christ is perhaps one of the most difficult aspects of his philosophy to grasp, but it seems to me that his argument is that the mediation, which was first projected in mankind fallen into sin, becomes the truth of what the God-man is in itself.

The absolute negativity that the community experienced as its essence in the downfall of Roman Empire—symbolizing the final stage of the stoic consciousness that still believes in the complete realization of absolute freedom in objective reality—and that it still tried to fend off by placing the absolute outside of itself in a God-man, now becomes reversed in itself and turns out to be an essential moment of absolute freedom. It is at the point that the religious consciousness becomes aware that the mediation or negativity constitutes a moment of the essence of the absolute.

3.5 *The Reconciliation of Good and Evil*

As a result, it is through the dualism of good and evil that religious consciousness emancipates itself. Hegel analyses that this dualism ends up in contradiction, because they cannot exist independently from another—without the good there is no evil and *vice versa*—but they are also absolutely different. There is no way of reconciling them, Hegel argues, because good and evil are presented as two fixed elements rather than moments of one and the same movement. The dualism is created by the consciousness’ clinging to the copula, the “lifeless ‘is.’” (Hegel, *PhG*, 473) The reconciliation of good and evil implies to abandon their opposition altogether by getting rid of the inadequate terminology of being and not-being.

At this very precise instance, Hegel claims, the transition from religious representational consciousness into philosophical conceptual consciousness really begins: “and since this unity is the universality of self-consciousness, self-consciousness has ceased to think in pictures.” (Hegel, *PhG*, 473)

Here, it may seem as if Hegel jumps to conclusions by simply flipping an argument *ex negativo* into something positive, viz. a whole new conceptuality. However, firstly, as I said before, it is only the beginning: We are still very much in the realm of religious consciousness. What happens is that consciousness begins to express itself conceptually. Secondly, what Hegel thus calls conceptuality is by now explicitly distinct from the conceptuality that clings to the forms of being and not-being. Thirdly, what Hegel means by this different conceptuality has already been presented in the rest of the *Phenomenology*; we are reading the penultimate chapter here.

Regarding the third point, particularly in the chapter on self-consciousness, we have seen that what Hegel considers to be the real existing concept, is the concept of recognition presented as the unity of life and self-consciousness. (Cf. Hegel, *PhG*, 104 ff.) The concept is the self-movement of this spiritual species; a species that finds, as opposed to natural species like horses and bees, its unity in being a people, having a second nature, living under an unnatural self-imposed law. (Cf., e.g., Cobben 2012; Kok 2013) Therefore, Hegel is justified to posit what he posits at this point, viz. that the required reconciliation and hence the existence of the concept, is already realized in the actual religious *community*: “Spirit is thus posited in the third element, in *universal self-consciousness*; it is its *community*.” (Hegel, *PhG*, 473)

From this point onwards, religious consciousness begins to apprehend what it really is: objectively existent spirit. Moreover, the consciousness of revealed religion grasps the spiritual meaning of this substance; or in other words, it understands that the community itself is spiritual. The negativity, which was first identified as the evil of nature opposing the self-consciousness, is now understood as a moment of spirit's essence. The mediation that was kept outside the God-man in its initial appearance as a sensible being, is now understood as its truth.

Here it becomes clear in what sense the death of the God-man acquires a spiritual meaning, which Hegel describes as the transfiguration of death:

Death loses this natural meaning in spiritual self-consciousness, i.e. it comes to be its just stated Notion; death becomes transfigured from its immediate meaning, viz. the non-being of this *particular* individual, into the *universality* of the Spirit who dwells in His community, dies in it every day, and is daily resurrected.

The internalization of the negativity evoked by death, and its consequent recognition as belonging to the inner structure of spirit, becomes pivotal in understanding objectively existent spirit—i.e., the community—as the pre-supposition of the moral individual consciousness.

We have to admit, in retrospect, that the point of departure of the moral individual was already a *spiritual* individual, not a natural one, because only an individual that is not ruled by instinct or natural inclinations is able to realize a moral content. Such an individual has already negated nature all the time. Hence, the community that underlies such an individual must itself have the structure of spirit. As such, it must be a nature that encompasses its negativity in itself, it must be self-negation. Therefore, the spiritual meaning of death entails that the religious consciousness becomes reconciled with its object when the communal praxis of religious consciousness becomes the object of religious consciousness.

However, the religious consciousness does yet recognize this object *as its self-activity*, but it devotes it as the doing of another power. As Hegel puts it:

It does not grasp the fact that this depth of the pure Self is the power by which the *abstract* divine Being is drawn down from its abstraction and raised to a Self by the power of this pure devotion.

HEGEL, *PhG*, 478

Nonetheless, precisely through the act of devotion, it is clear to us that the object is brought in its place by religious consciousness. A conclusion that is further elaborated on by Hegel in the chapter on absolute knowing, but which falls outside the scope of this paper.

4 Conclusion

The most important conclusion of this assessment of Hegel's phenomenological account of Christian religion—as the religion of (Kantian) morality—in his chapter on revealed religion in the *Phenomenology* is that the God-man is not a *positive* realization of an otherwise transcendent being. Instead, the God-man is the image of the Self that depicts the structure of self-negation allowing consciousness to become aware of negativity as a moment in the spiritual movement that is its existence—i.e., it is the condition through which consciousness can become self-consciousness.

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The Reality of Value as a Problem of Kantian Ethics

Martin Bunte

1 On Hegel's Critique of Kant's Formalism¹

Hegel's accusation of formalism against Kantian ethics is one of the classic topoi of practical philosophy, to the point that it has become as it were a shibboleth of philosophical debate. The situation of research today suggests that the controversy between the camps has become bogged down in trench warfare, with little prospect that the front can budge substantially to one side or the other. The reason for this state of affairs has to do with a strategic paradox: Hegel's attack is directed against one of the strongest and indeed insurmountable points of the Kantian system; but at the same time the means for its defense are extremely weak. This weakness is not only a matter of the defenders' lack of resources, but as we shall show, it is systemic. Thus a defense of the Kantian position can succeed only through a vigorous defense of the Kantian system as a whole. Hegel's critique not only provides the occasion for this, but at the same time sets the standard that the response must meet.

2 Hegel's Critique of Formalism in a Kantian Perspective

Hegel's critique of Kantian formalism is linked to the suspicion of contingency with regard to the concrete content posited in moral judgment:

Laws are no longer given, but tested; and for the consciousness which tests them they are already given. It takes up their content simply as it is, without concerning itself, as we did, with the particularity and contingency inherent in its concrete reality; it is concerned with the commandment simply as commandment, and its attitude towards it is just as uncomplicated as is its being a criterion for testing it. (PS 257)

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Hegel points to the very center of the logical difficulty of ethical formalism, namely, the intermodal relation of the contingency of logical matter on the one hand and the apodictic determination by form on the other. However, this construction can only be conceived without contradiction if it is assumed that apodicticity accrues to moral judgment merely hypothetically, that is, only on the condition of an already given purpose. But this solution raises again a new, twofold difficulty:

1. How can this hypotheticality of the categorical imperative be interpreted without damaging the apriority of its claim to validity?
2. How can the moral law be an expression of freedom if this is not at the same time a condition of its content, that is, if the autonomy of the will is conceivable only under the reservation of the heteronomy of what is willed?

It is not difficult to see that with these problems the reality of the pure moral law itself is in question, despite Kant's assertion of its total and utter apriority:

I assume that there are really pure moral laws, which determine completely a priori (without regard to empirical motives, i.e. happiness) the action and omission, i.e. the use of the freedom of a rational being in general, and that these laws command absolutely (not merely hypothetically under the presupposition of other empirical ends), and are thus necessary in every respect. I can legitimately presuppose this proposition by appealing not only to the proofs of the most enlightened moralists but also to the moral judgment of every human being, if he will distinctly think such a law.²

From the problem that the categorical imperative lacks materiality, Hegel deduces its analyticity, insofar as the universal of the moral law "is no longer the affirmatively present and authoritative substance, or that which is right in and for itself, but a simple knowing or a form, which compares a content only with itself, and considers whether it is a tautology."³ Thus, a rule tested for its

2 CPR 678. "Ich nehme an, daß es wirklich reine moralische Gesetze gebe, die völlig a priori (ohne Rücksicht auf empirische Bewegungsgründe, d.i. Glückseligkeit) das Tun und Lassen, d.i. den Gebrauch der Freiheit eines vernünftigen Wesens überhaupt, bestimmen, und daß diese Gesetze *schlechtherdings* (nicht bloß hypothetisch unter Voraussetzung anderer empirischen Zwecke) gebieten, und also in aller Absicht notwendig sein. Diesen Satz kann ich mit Recht voraussetzen, nicht allein, indem ich mich auf die Beweise der aufgeklärtesten Moralisten, sondern auf das sittliche Urteil eines jeden Menschen berufe, wenn er sich ein dergleichen Gesetz deutlich denken will." KrV, A 807 | B 835.

3 PS 257: "[Hier ist das eine Glied der Vergleichung verschwunden; das Allgemeine ist] nicht mehr die seyende und geltende Substanz, oder das an und für sich rechte, sondern einfaches

generality, in its content, as in the famous Kantian example of the deposit, is *trivialiter* shown to be general only if it is general: however, what is not shown is how the moral law validates the particular, in this case property, as holding universally. The moral law as a principle is thus not equipped to determine the multiplicity of possible actions by examination of their rules: "It is not, therefore, because I find something is not self-contradictory that it is right; on the contrary, it is right because it is what is right."⁴

The question of what is Right, that is, the question of the materiality of the value judgment, is actually the exposed flank of Kant's consideration. The weakness of the Kantian or better "Kantianizing" defense is that it always skips over the real problem, which Hegel sees clearly. It is usually alleged that Hegel misses the essential point of Kant's argument, failing to see that Kant's concern is to formulate an objective principle of rule-based action, according to which, in order to furnish moral guidance for action, the maxims must qualify in terms of logical or decisional generalizability. That is, Kant's concern would not be with dissolving the hypotheticality of the rule content, but with the apodicticity of the determination of will as a principle (cf. e.g. Höffe 2002. 70 f.). This *post-festum*-argument for ethical formalism is ultimately not incorrect, but it misses the full scope of the Hegelian objection, which touches the core problematic of Kantian philosophy itself. If freedom as spontaneity or autonomy is to be the essential reason for the determination of will, then it must be able to refer to rules or laws from the position of legislator. Practical reason as freedom could never be legislative if the laws to which it refers were not always already under the condition of its authority as law-giver.

However, this in turn demands explanation. Here the problems of interpreting practical philosophy mirror those faced by theoretical philosophy. Again we meet the failure of philological Kant research to focus clearly the essential problem of transcendental deduction, namely the multi-level relation of principiation of the highest principle to its forms, commonly called the categories, and of these to the manifold diversity in intuition, as a single, consistent movement of thought.

3 The Form of the Moral Law: Freedom as Self-Legislation

Correspondingly, the resolution of the difficulty Hegel sees in Kant's practical philosophy must again be quite analogous to the resolution of the problems of

Wissen oder Form, welche einen Inhalt nur mit sich selbst vergleicht, und ihn betrachtet, ob er eine Tautologie ist" (*PdG*, 232).

4 PS 262: „Nicht darum also, weil ich etwas sich nicht widersprechend finde, ist es Recht; sondern weil es das Rechte ist, ist es Recht.“ (*PdG*, 236).

the theoretical philosophy, since only then is the unity of reason guaranteed in both the theoretical and the practical *sense*. In praxis, as in theory, what must first be seen is the principal nature of the basic principles: "Practical *principles* are propositions that contain a general determination of the will, having under it several practical rules." (CPrR 19) As a great majority of the interpreters have fortunately seen, practical philosophy is not concerned primarily with the determination of actions, but with that of the will. But by what is the will determined? This is where the misunderstanding begins. The will, on the level of principle, does not refer to anything external to itself, such as a rule or a law, for example, that "there should be property"; otherwise it would not be a principle, but principiated. Rather it has a determining reference to itself, and through this it acquires the consciousness of its claim to validity as a pure free will, that is, one determined only by itself. The highest potency of freedom is therefore to be seen in the independence of self-determination through self-legislation, and this alone is the ground of the highest facticity of reason.⁵ It follows that the practical law, in turn, has no direct relation to the moral validity of a given action, but rather identifies the very possibility of validating actions. The fact that there is still uncertainty about this point today indicates a deeper misunderstanding of the task of transcendental philosophy itself, which shows up in connection with the famous expression "condition of possibility" (*Bedingung der Möglichkeit*) and the decisive role it plays here: the condition of possibility signifies the condition of the possible as conditioned, not as possible—for what decides the latter is the experiential circumstance, and in the practical realm this means the circumstances of an action. In other words, you cannot determine in advance what is going to happen, but under which necessary condition it will happen. What is required, then, is a condition that is itself no longer conditioned, that is, an unconditioned condition. This is none other than the spontaneity of an action that in acting gives itself a law. If one wants to take seriously Kant's thought that it is one and the same spontaneity that decides in the theoretical as well as in the practical realm, then the form proper to that spontaneity must be found to be exactly the same in both realms, inasmuch as the form can be conceived only as resulting from the one spontaneity. Otherwise the form would remain external to spontaneity and spontaneity would not be spontaneous, but affected by a form.

That it is precisely thus that this systematic necessity is implemented by Kant could be shown with reference to the categories: in the theoretical realm they constitute the heautological moments of reflection of reflexivity; and

5 Krug has correctly noted this in his *Fundamentalphilosophie* (1981, 130).

in the practical realm those of imputability: if, then, the categories in their theoretical use determine the possibility of experience in general, insofar as they determine the possibility of every object-knowledge as the knowledge of a conditioned in the realm of appearance, without which an idea (*Vorstellung*) could not be mine (cf. KrV, B 131), then the categories as moments of practical self-determination condition the possibility of an action, insofar as it should be appropriable by an agent as an action as such, without which an action could not be mine.

The categories as functions of freedom thus determine the possibility of willing as such. They do so first of all subjectively: it is according to the personality, that is, according to the condition of the possibility of appropriating an action, by means of practical rules of desire, that the will determines its own maxims or will-intentions with regard to their possibility of being regarded as actions of a being capable of reason and appropriation, that is, a personality, and thus determines them as permitted or prohibited. This reflection on the possibility of a personality as a self-governing faculty conditioned through itself became simpler and more perspicuous when expressed in terms of an ought: "So act that the maxim of your will could always hold at the same time as a principle of a universal legislation." (CPrR 45)

It is now easy to see that the categories of freedom are included as moments in this formula of the categorical imperative: It is to a being capable of maxims, that is, to a personality, more precisely an individual, that the demand is addressed to check his will-intentions in each action to see whether they can be in accord with the rationality embedded in him as a personality, such that the practical rule expressed in the maxim is fit to be a basic principle, so that it coincides with reason. In that case the action would be permitted. To the contrary, an action that does not fulfill this criterion is prohibited, either because the rule it posits logically contradicts the principle of appropriation, insofar as it necessitates two opposite practical determinations in the same subject, or because it is in real conflict with the principle, so that the act cannot be willed from the standpoint of reason. The three other formulas can be derived from the form of the self-determination of the will following the same pattern: in the formula of the law of nature, however, the will is not manifested as subjectively determining but as objectively determined by its own law. In the twofold teleological formula—first as end-in-itself (cf. GMS, AA IV: 427 f.) and then as formula of the Kingdom of Ends (cf. GMS, AA IV: 433 f.)—the determination of the will manifests itself in the reciprocity of the thoroughgoing determination of will, that is, the given determinateness of my will and its completed determination over against the will of all other ethical subjects.

4 **The Matter of the Moral Law: Moral Feeling as Experience of Validity**

How does this bear on Hegel's critique? On the one hand, the threefold or fourfold form of the imperative and the twelvefoldness of the moments expressed in the categories of freedom, just as in the table of theoretical categories, indicate the formal closure of the Kantian system, which leaves no room for conceiving any other position and which dooms any attack on this feature of the system to flail in the void. The restriction of the claim to completeness to the merely formal, however, leaves untouched and unsolved the problem of the lack of materiality and the related question of the origin of this problem. Kant gives in Reflection 6854 a decisive hint:

Freedom according to laws, so far as it is itself a law, constitutes the form of the moral sense. Its matter is the moral feeling which has no object but the accord with the goal of humanity and of the human being as such.⁶

So the matter of practical law is supposed to be a feeling, and this feeling is not supposed to be of empirical origin, but rather known to be "produced by reason." Kant's answer must at first glance seem obscure and unsatisfactory, for the idea of a feeling of reason is quite paradoxical. However, if one overlooks this difficulty, it becomes clear that through the concept of feeling Kant seeks to grasp terminologically an affection of reason by itself. If we also remember that reason is not a rule, but a faculty of the mind, and thus the ability of the mind to form rules about rules, then the particularity of the practical use of pure reason intended here becomes clear: in the theoretical realm, reason refers to the laws of nature and brings them together under the idea of the unity of an all-determining legislation. It is thus merely a guide of action, that is to say, regulative, insofar as the laws to which it refers belong not to reason itself but to the understanding. Practical reason also refers to rules, but these laws are not of nature but of freedom. Thus, it cannot refer to the understanding as legislator, but only to itself. Accordingly, the *post-festum*-argument, that reason

6 „die Freyheit nach Gesetzen, so fern sie sich selbst ein Gesetz ist, macht die form des moralischen Sinnes aus. Die materie ist das moralische Gefühl, welches nichts zum Gegenstande hat als die Einstimmung mit dem Zwek der Menschheit und der Menschen überhaupt.“ (AA XIX: 180; Ref. 6854)

refers only retrospectively to the review of existing laws, does not apply, since the positing of a law and therewith the determination of an action are also free, that is, have to be effected by freedom alone. Hegel is right at this point, but he is not in opposition to Kant. The real problem is that Kant must make clear how reason, in the same spontaneous act of legislation, experiences itself at the same time as being affected by this act, that is, does not merely think itself but experiences itself sensibly. Kant's laconic utterances on moral feeling are not particularly helpful in answering this question: the moral feeling is supposed to have as its object an accord with the purpose of humanity. This feeling of accord, as is already clear from the nature of the practical use of pure reason, cannot be experienced in a playful way like aesthetic judgment, but must itself be determinative. Accordingly, the moral feeling is an *experience of validity* (*Geltungserlebnis*), which has its logical place in determining reason, but its sensorium in sensibility.

Even if one accepts Kant's line of thought to this point, one is immediately confronted by the question: in what does this purpose of humanity consist, which is supposed to generate the feeling? That this purpose can no longer be in derivative dependence on other purposes is clear at first sight, for reason necessarily always presses for the highest form of unity (cf. KrV, A 305 | B 361). The question can therefore only be answered by reference to the ideal of a universally realized freedom in the form of the highest good. In the idea of the highest good, happiness no longer proves dependent on extra-moral conditions, but is wholly posited by the worthiness of the moral subject. In the ideal of the highest good, therefore, autonomy is fully realized, insofar as the moral person is conceived in it not only as the cause of its own moral destiny, but at the same time as the cause of its own state and all its internal and external factors. By referring to the ideal, the meaning of moral feeling outside the practical ideal becomes clear: moral feeling conveys the state of inner happiness through the insight into the principle, that is, the origin of one's own moral certainty.

Against the background of this consideration the frequent stricture against Kant's morality as bereft of pleasure proves to be a blatant misjudgment or prejudice. But there are two further problems with it that now arise. The *first* problem concerns the certainty of the knowledge of the inner reasons which motivating one; the *second* the legitimacy of those reasons. Kant's response to the first issue is sobering and astonishingly equanimous: since we have no privileged access to the nature of our transcendental character, the reason for our actions must remain forever unknown to us (AA VIII: 284). However, if this hellish journey of self-knowledge is to end at the foot of the Mount of Purification, a higher instance must be invoked. It is not for nothing that Kant takes

up the old Lutheran theme of God as the heart's messenger (*Herzenskündiger*: RGV, B 85; AA VI: 67). The second difficulty concerns less the eschatological implications of morality than the possibility of moral destiny itself. If the moral determination of the will lies only in the form of its determination, form and content seem to condition one another reciprocally: the consciousness of freedom is grounded in the consciousness of the unconditionality of the ought, and the determinateness of the ought is in turn grounded in the consciousness of freedom. But here we are obviously caught in a circle.⁷ Kant seems to have become aware of this objection, since he addresses it in his *Metaphysics of Morals* (RGV, B 85; AA VI: 67):

There must now be such a purpose and a categorical imperative corresponding to it. For, as there are free actions, there must also be purposes to which, as object, those are directed. Among these purposes there must also be some that are at the same time duties (i.e. according to their concept). For if there were nothing of that sort, then, since no action can be without a purpose, all purposes for practical reason would always be considered only as means to other purposes, and a categorical imperative would be impossible; which abolishes all ethics.⁸

The point emphasized in this short passage is astonishing even to the Kant expert: the possibility of the categorical imperative is itself subject to the condition that there are objective purposes which, according to their concept, are duties, that is, already posited by their concept as ends in themselves. In the further discussion it emerges that they are "their own perfection" and "alien happiness" (MAT, AA VI, 385). Has Kant thus solved the problem of the value-content of his ethics? At first glance, it seems so, but on closer inspection the problems arising with this solution weigh heavier: Not only does Kant ground the assumption of material final ends on the assertion of freedom ("since there are free actions"), thus reversing the *Critique's* direction of grounding, but he seems at the same time to destroy the entire web of final grounding of his ethics from the form of self-determining freedom. The categorical imperative is

⁷ Cf. Apel 1996, 331. On Apel: Jong-Seok Na 2002, 330.

⁸ „Es muß nun einen solchen Zweck und einen ihm korrespondierenden kategorischen Imperativ geben. Denn, da es freie Handlungen gibt, so muß es auch Zwecke geben, auf welche, als Objekt, jene gerichtet sind. Unter diesen Zwecken aber muß es auch einige geben, die zugleich (d. i. ihrem Begriffe nach) Pflichten sind.—Denn gäbe es keine dergleichen, so würden, weil doch keine Handlung zwecklos sein kann, alle Zwecke für die praktische Vernunft immer nur als Mittel zu andern Zwecken gelten und ein *kategorischer* Imperativ wäre unmöglich; welches alle Sittenlehre aufhebt.“ (MAT, AA VI, 385)

thus no longer the ultimate yardstick of moral action, but must measure itself against purposes. In addition to these systematic objections, objections can also be raised against the moral duties and virtues defined by Kant, which he deduces from the moral ends, and which largely derive from the moral taste of his time.

5 The Unity of Matter and Form in Limited Reason

So did Kant's practical philosophy ultimately fail? It almost seems that way, unless one withdraws dogmatically from the standpoint of the Doctrine of Virtue as a doctrine of final ends. However, such a dogmatic retreat is neither necessary nor commanded. On the contrary, by looking only at the content of the final ends argument, one overlooks the status of the argument: the existence of moral doctrine is itself an imperative! However, this imperative is not directed to the acting subject but is a demand that reason addresses to itself. But we already know this self-address as an affection. This dissolves the riddle of the moral final ends. These too were already known as moments of the highest good, with the difference that Kant here conceives them as constitutive of a *finite* reason and not as regulative ideas of pure reason, and therefore lets them limit one another reciprocally in the relationship of ownness and alienness. However, finite reason experiences this limitation from the outside, but the forms of its limitation are themselves rational, and intelligible in the mode of their being rational.

However, with this, at its highest point, the inquiry faces the real challenge of finding these forms. They cannot be dialectically spun out of reason itself as with Hegel. Rather, they must be derived from the unity of sensibility and understanding or reason as two faculties that are completely independent but capable of mediation. But this presupposes a ground of their mediatibility, which itself cannot be attained through mediation. Here there arises, then, the question about transcendental-ontological determinations. Kant is quite taciturn about this point. Nevertheless, he gives an indication in *Religion within the Limits of Reason Alone* and in the *Anthropology*: animality, humanity, personality, and interpersonalit in the form of reciprocal determination within the community point to distinct constitutions of psychic being, without Kant making it clear how he reaches these determinations and in what exact relationship they stand to practical reason. It is obvious, however, that these are neither merely empirical concepts nor are they original forms of thinking, that is, categories. Rather, they have a mediating form in the genre of derived

pure concepts. Thus the question of value-reality is definitively located in systematic terms as part of Philosophy of the Real as one of the practical parts of rational science. The final answer to this questions accordingly requires a further development of the categorial system into a categorematic one.

6 Summary

A number of things have been shown. First, we found that Hegel's criticism of Kant's formalism is valid. Thus the conventional defense strategies previously used, which rely on the separation between the formal justification of the categorial imperative and its material indeterminacy, in the form of the *post-festum*-argument, were bound to fail. We attempted therefore, in a second approach, to illuminate the material aspect of the moral law in Kant. This could be discerned in the experience of the validity of one's own moral basic principles, insofar as these coincide with the purpose (*Zweck*) of humankind or human beings. The consideration of what this ultimate purpose might consist in led to the idea of a freedom realized on all sides, the highest good, according to which happiness is to depend solely on worthiness of happiness.

With this argument, however, the problem immediately arose of the reciprocal, and therefore circular justification of an ethics that is envisaged in purely formal terms. Kant himself apparently counters this problem by introducing two unconditional material ends, without which a categorial imperative in the form of the moral law would not be possible. Even this strategy, we showed, cannot solve the problem of the lack of value reality due to the externality of form and content, but merely terminates the justification dogmatically.

However, this aporetic outcome overlooked the really essential moment in the grounding of ethics, namely, the demand that morality should be at all, a behest that directs reason not to the acting subjects but to itself. In this way it could be shown that reason is both determining and determined in relation to itself; thus its determinacy is not the result of an external fixing of ends, independent of reason, but reason itself is always the ground of its affection. The problem of the seemingly missing materiality could thus be solved in general because it has been made out that the determinateness of the will necessarily has to possess the form of finite reason, and this qua reason. The question that follows on this about the specific determinateness of the limited reason of a finite sensual being will have to be worked out elsewhere, for it presupposes the successful transition from transcendental critique to the real-philosophical system.

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Foundations of Normativity

Max Gottschlich

The terms “normative” and “normativity” are found widely in common usage, not least in the context of the dichotomy between normative and descriptive judgements. It is, however, easy to see that logical assumptions are in play here which transcend the reflection horizon of formal logic. As a contribution to elucidating this issue we want to demonstrate the relevance of Kant’s transcendental logic and Hegel’s dialectical logic by reference to some fundamental results. Our thesis is this: *Speaking of normativity is only then not logically meaningless when logical form is not interpreted as immovable essentiality applied to apparently given contents, but instead is conceived of as self-referential and self-fulfilling form.* This will be demonstrated in two steps. First we will bring out some of the implications of speaking of normativity and these will be closely scrutinized from the standpoints of Kant and Hegel. In the second step we will consider the concept of purpose, specifically in the context of production (*poiesis*), in order to show that this concept goes beyond the dualism of being and ought presupposed by the common talk of normativity. The relation between Kant and Hegel should be clarified showing that on the whole it is not so much a matter of alternatives as one of progress in revealing and grounding the presuppositions.

1 Logical Assumptions of Normativity

A cursory look at common speech (*lingua docet logicam*) can show that theoretical and practical dimensions are expressed when we talk about normativity; when we regard something as normative, initially this is reflected in the way I am supposed to set myself in relation to something, how something should be regarded or how it should be handled. Now with that “setting oneself in relation to something” we have already named the first decisive assumption of normativity: the *form of reflection*. Normativity presupposes a type of logical form that takes the form of reflection seriously as a logical form. Considered abstractly, normativity implies a difference between *determination* (Bestimmtheit) and *determiner* (Bestimmung). This tension gives expression to the

fact that equality with itself, identity, is not any kind of simple immediacy. Identity presupposes the form of self-reference: at once relating itself to itself and differentiating itself from itself—nothing other than the form of reflection. This means that subjectivity is taken not as an extra-logical, psychological instance, but as logical form.

1.1 *Relevance of Formal Logic*

Applying this criterium excludes formal logic from the task of grounding within logic the presuppositions of normativity. This is because formal logic, obeying the consistency postulate of the principle of avoiding contradiction, has to regard everything associated with *self-relation* in logic as paradoxical, requiring additional distinctions to avoid it.¹ Terms of the ought are essentially reflexive clearly showing the limits of formal logic. A term of ought is never merely an objective determination, because it simultaneously refers back to thinking as the determining factor. Normative is a *determination* that we make in action and in cognition; it is, however, simultaneously *determiner*, i.e. it guides us, we allow it to direct us. In every normative determiner we thus establish a self-relation. This is not to be understood psychologically. The abstract fundamental form of the self-relation is the form of reflection (the unity of self-referentiality and self-differentiation). However, the form of reflection or the self-relation is, as Hegel's *Logic of Essence* shows, nothing other than the *contradiction*, which is not conceived of and resolved in formal logical, but simply avoided, simply hidden in the presuppositions. The form of reflection and with that thinking *actu* is taken as an extra-logical given instance, presupposed as a merely psychological function that brings an external goal into the logical form and uses this as merely a means for technical action. Thus formal logic uses logical form as a set of determinations (logical constants etc.) whose determiner falls in an extra-logical understanding.

This is what makes reflection in formal logic external to itself. As logic it is clearly the reflection of reflection, but it is this only immediately. Hegel characterizes it as the pattern of consciousness he calls "observing reason."² As such thinking is still submerged within itself as an object. This standpoint is not concerned with the *thinking* of normative determiners, but about *ways of operating* with fixed determinations, operations that can be rendered automatic. Deontic logic seeks consistency relations among ought-related utterances and transforms these with re-interpreted modal operators into algorithms. But then clearly in this calculus only fixed determinations are involved. The

¹ This is shown very clearly e.g. in the problem of Russell's paradox.

² See the section on *Logical and psychological laws* in Hegel's *Phenomenology of Spirit*.

question as to what these determinations mean in and for themselves and which logical assumptions ought determiners have in general is excluded by formal logic, which is what it does also with the inherent reflexivity of all ought determiners.

It has to be said, however, that the reflection level of formal logic is in a certain sense indeed the characteristic ground of speaking of values (clear e.g. in the term “truth values”) and norms. Formal logic is a pattern of the immediacy of reason. Formal logical ordering schemes are set up and simultaneously presupposed as given *patterns of reason*. The ordering schemes should not dissolve into nothing; instead they are supposed to make themselves available for application to the real world. Kant enlightens this action about itself by showing that “we think formal logically both in the world of theoretical reason as well as in that of practical reason by *creating order*. We produce a meaning. No human being can live without acting under the image of a meaning that he carries before him as a *flag*, sets up before him as an *image* or utters as a highest *principle* in a highest *fundament statement*.” Why? “We know this from Humboldt. Human beings have no direct access to the world, but always only the indirect access via images and ideas.” (Liebrucks 1970, p. 300) Speaking of norms or values has such reflection-images in mind that we set up in order to lead our lives. They function as unmoved movers in the production of determination and for orientation in cognition and behavior. But then the conditions of the possibility of setting these up and of the functionality of values or norms are not incorporated into reflection in formal logic.³

1.2 *Relevance of Transcendental Logic*

The next step justifying the presuppositions of normativity takes place in Kant’s transcendental logic and the critiques built upon this “revolution in the way of thinking.” The reflexivity forgotten in formal logic, or avoided at the penalty of the contradiction, is what now emerges as the *principle* of this pattern of logic—in relation to its foundations and style of presentation as well as its highest principle.

3 A philosophy that has no compunction about relying upon so-called given values is as pre-Kantian in its style of thinking as one that claims that behaviour and cognition could be based on a given *ordo entium*. In contrast, Nietzsche’s talk of the “revaluation” of all values emphasises—in nihilistic manner—the character of values and norms as settings. Neo-Kantianism, especially in its “southwest German” version, grappled with this problem. Whether it succeeded in its reinterpretation of the *apriori* to stop reflection sinking into itself may be doubted (cf. Zeidler 2002; Zeidler 2017, 186, as well as the systematic study on Rickert by Krijnen of 2001, esp. 415 f. and 512–587).

1) Transcendental logic is the answer to the following question: What is the relevance of formal logic for the cognition (of objects)? Formal logic does not have dignity of cognition immediately and without more ado; the point is that this dignity of cognition *should* be provided to it in the form of transcendental logic.⁴ Which conditions of possibility need to be *assumed in principle* in order to ensure that formal logically correct thinking has content? The answer to this is given by the *Critique of Pure Reason*. It is not an epistemology, not a collection of findings, but stands in the status of essence in Hegel's sense: a *system of pure settings in principle* that set the limits to what can be stated by formal logic correctly and which can claim to possess content. They are settings—this is central to our topic—that should guarantee the *character of necessity* of thinking (necessity means the unity of thinking and being). The self-sustainability of the necessity character of thinking is the normative kernel of transcendental logic.

2) Answering this fundamental question once again reveals a *reflexive* aspect: all terms of transcendental logic are settings in principle that have to be made if formal logic is not to come to nothing; they are not findings. One result here, or better the main result is that the necessity of thinking can only be secured *a priori* by revolutionizing the concept of logical form. The main result then is: logical form is to be grasped as a self-referential universal, or more precisely as a form of reflection (which in formal logical terms, of course, is nonsense). As a consequence logical form is no longer conceived of without taking the I, thinking *actu*, into account, instead it becomes clear that all logical forms and principles are relative to the *one* logical form, which is the original unity of the manifold of conceptual and intuitional representations in the unity of transcendental apperception (CPR § 16). The I steps out as logical I from its confinement in its content, out of all order of being and out of all teleology in the sense of the actualization of an essence (*eidos*). Thinking distinguishes itself from all its *determinations* and reflects itself as *determiner* in the sense of the one logical form, the original synthesis. Here we encounter

4 By itself, formal logic is not capable of guaranteeing that its forms have content. It lives from the presupposition that its division and sorting into classes, species etc. has a *fundamentum in re* by the grace of nature, ensuring that it does not collapse into nothing (cf. Fichte 1962, 119). Kant enlightens us that this capability of ordering does not represent nature's grace, but only its obligation, to the extent that is that it is supposed to be capable of being considered as a controllable system of appearances. "Nature" qua space of the one scientific experience, which formal logic has as prerequisite behind its back as it were, is the presentation of the one logical form turned into the objective conceived of as the correlate to the gathering of the manifold of intuition and conceptual representations in the unity of the transcendental apperception.

for the first time the thought that freedom is not the teleological realization of an *eidos*, but is self-determination. With this it is also clear that purposes do not determine me immediately; what happens is that the I-ness is reflected as the principle of the production of all schemata of order.

Moreover, running through the entire complex of transcendental logic we find from the start the revolutionary new conception of logical form as one of *self-fulfilling self-relation*. It is a conception that is, as we shall see, fundamental to the “logic of purpose” in general. It is also crucial to grasping the normative in both theoretical and practical domains.

Looked at from the standpoint of Hegel’s logic of reflection, in Kant’s reflection we stand on the ground of the insight that immediate existence, present being, is a setting. Being has no independence with respect to essence (being is essentially *for one*), at the same time being has *persistence* in essence, as does present being, as a setting (one thinks of the law). The immediate as such is not the true, but only this as mediated, for Kant ultimately as mediated in the “kingdom of ends.” What carries out the mediating itself, however, or the location of all mediation, is thought of in transcendental logic as a form of reflection, namely as the logical I. The *Critique of Pure Reason* demonstrates that objectivity is nothing other than universal subjectivity, but this signifies the insight that the ground of all validity and bindingness—in theoretical as well as practical domains—can no longer be a specific content of consciousness or anything immediate, but is the form of mediation itself and its self-maintenance.⁵ All normativity in theoretical and practical terms aims at the fulfilment of the absolute form of knowledge, of the self-referential universal. With this the ground of the setting of values or norms becomes transparent. In other words: *The supposed present being or givenness of values or norms in thinking is now completely clarified as settings*. They are not positivities that guide us as the stars guided the ancient seafarers; they are functions of reason’s production and maintenance of itself as a self-knowing self-relation.

In every normative claim, formulated in terms of Hegel’s *Logic*, initially we take the step from being into essence. In the status of essence we stand in thinking as Kant conceived of it. If the normativity of something is held fast to, in relation to the theoretical or the practical, then this is initially the repelling of essence from itself, setting itself different from and identical to itself, *a transcending of immediacy towards a setting in which the identity of reflection with itself should produce itself*. In other words, every normative claim sets

5 This becomes clearer in the early Fichte; the systematic approach there ensures that all theoretical and practical normativity is explicitly conceived of from the standpoint of the logical I—in the tension of unification of the opposed “fact-acts.”

being as semblance. The normative claim says: the immediate is not the true, but a mediation only in which identity with itself is first produced. Equality with itself is not immediate, indeed, it only exists insofar it has been established or posited. This first assumption for speaking of normativity lies at the very heart of Kant's revolution in thinking.

Let us review the concrete results in the concept of normativity from Kant's viewpoint with respect to the standpoint of formal logic and the ontology constructed upon its foundation.

1) From the standpoint of transcendental logic, normativity in theoretical terms depends upon the answer to this fundamental question: How is the pursuit of knowledge to be conceived in order that formal logic should have dignity of cognition? In answering this question it turns out that cognition is always the effecting of a unity in the manifold. However, this must be grasped as objectification, *positivizing* (i.e. relating the logical to the Kantian intuition forms of space and time). This is why everything in the transcendental logic essentially turns on the judgement; as a form the syllogism is only supposed to serve in the framework of the theory of ideas for the purpose of securing the unambiguous determination of the judgements. Securing the character of necessity of cognition requires that Kant not ask for *actuality*, not even that of appearances, but in fact "only for the conditions of the possibility of unambiguous *statements* about actuality" (Liebrucks 1966, p. 297). The normative *movens* here is the self-maintenance of the logical I, thus of the principle of a transparent self-relation that in the cognition of objects should be *a priori* guaranteed. This sphere of the self-maintenance of the logical I is—if formal logic is to have the dignity of cognition—restricted to the space of the sole scientific experience, to the generation of the world of the exact natural sciences, to the world of positivity. The lawful context of the objects of appearance is nothing other than the extension of the logical I into an objectivity that is logically fully transparent, an extension in which formal-logical form indeed becomes laden with content, fills itself, so to speak, or in other words: an extension in which the contradiction-free self-maintenance of the logical I and the technical-practical approach to the world (the domination of nature) are secured in principle.

The price we have to pay for this is that the presence of anything like a self-manifesting nature (in the sense of the Aristotelian *ousia aistheté*) is strictly prohibited in this world of positivity. Clearly this presupposes an intuition or a sensibility that *may* not bear a meaning of its own, an intuition which is logically *blind* in order as slave of the (Kantian) concept to be able to deliver its material. Here I cannot encounter anything that would impose

upon me the restriction of my objectifying activity and the recognition of another self.

That was how Kant disclosed the secret of the demand for consistency of normativity. These unmoved movers serve the self-maintenance of the necessity character of thinking—and in theoretical reason this can only be secured with formal-logical means in the technical-practical approach to the world. The genuine meaning of the primacy of the practical in Kant's systematics lies in the restriction of the technical-practical approach to the world, which otherwise would be unrestricted. The unconditioned normativity of the categorical imperative in the sense of "you can because you should" is supposed to hold it back from its perversion into the technical-practical imperative of "you should because you can."

Looking back from this vantage point to the opposition mentioned at the beginning, we have over here the domain of facts that exact sciences are tasked with presenting in minute detail, including judgements capable of truth value, and over there on the other side the domain of the ought, of meaning as expressed by judgements not capable of truth value and legitimate only by virtue of determinate context conditions or else as given, presupposed value standards. (Vossenkuhl 1984, col. 931) Now it is easy to see that this is far too narrow. In the *Critique of Pure Reason* it is made clear that all so-called state of affairs (Wittgenstein) ultimately depend on principles ("principles of the pure understanding," ideas of reason) that facilitate the logical genesis of the objectivity of the object. Scientific judgements about "facts" thus are tied to theoretical normativity, to the demand for *reflexive* self-sustainability of thinking's character of necessity, of the continuum of logical form itself. The same goes for practical reason. (Cf. on this most recently Langthaler 2018)

2) In practical terms Kant is concerned with the possibility of ethical consciousness as universally binding = universally valid and necessary. Prerequisite in this is: perspectivism *should* not gain the upper hand.⁶ A crucial assumption here—which is important for the step to Hegel—is that ethical consciousness does not first come into the world via ethical reflection, but that it is already

6 This was already Plato's motive for developing the theory of ideas in tackling the principle of abstract subjectivity of sophism. The question which has come to the forefront in the present: why be moral at all? appears in contrast to proceed from perspectivism and more particularly to assume that the concept of the good can be separated from the idea of inner purposiveness.

actual. For universal validity and necessity to be capable of being possible in the practical, according to Kant, unconditioned practical normativity can only happen if *the form of reason affirms and maintains itself*. For the following also holds in the practical: objectivity (now in the sense of the practically binding) is *universal subjectivity*. The logical form I think is not any kind of type; it distinguishes itself from any sort of order of being, in fact standing opposed to it. I cannot read off the normative, as universally binding, from any determination of essence, from any supposed location in a hierarchy of being (*arbor porphyriana*). Only in this way does freedom become thinkable as self-determination. *The form of the universality of the will, thus the form of willing reason itself*, can be universally binding or normative by virtue of no instinct or drive, but only simply for itself. This abiding insight will be deepened by Hegel when he says that freedom of the will lies in willing the free will. (Hegel, G.W.F. 2015B, §27, 45).

Hegel's objection to Kant is not what was later called the formalismus accusation. This complaint overlooks the decisive insight achieved by Kant—and shared by Hegel—that the character of the good being in and for itself must arise from the form of reason. This anchoring in the form of reason is precisely what puts Kant's approach far higher than that which apparently deploys given values and overlooks the setting character of what it is all about here. The kernel of Hegel's critique of Kant's practical philosophy is that Kant did not conceive of the form of reason as absolute form, as form continuing into the consciousness of specific duties, but rather as an abstractly universal form (of lawfulness in general), under which the maxims of the will are supposedly capable of being subsumed without contradiction. Hegel's critique of Kant's ethics flowing from this applies to its *sheer* imperative character and the problem of the relation of the categorical imperative to particular maxims. Kant believed that the reconstruction of ethical consciousness—and for Hegel such is also the task of ethics—would have the task of undertaking a *deduction* of duties. In Hegel instead of that what happens is the *development of the concept of freedom* in his *Philosophy of Right*.

The logical root of this methodological difference in ethics, as well as in the conception of cognition, lies not least in the fact that Kant proceeds on the assumption that this self-sustainability of logical character in all serious science happens in the medium of universally valid and necessary *judgements*. This fits the bill when it is about the exact sciences and their technical-practical application. But when Kant regards this striving for universally valid and necessary judgements also as a task for the critically purified, i.e. genuinely *scientific* philosophy, then the distance between Kant and Hegel becomes clear. Hegel comprehends the judgement as the logical status of difference in the concept, thus the intended but not achieved mediation.

In sum, Kant demonstrates that in the style of thought of formal logic we take principles as existing (not set) functions giving them their role in consciousness as unmoved movers; in theoretical terms this is the logical I that directs the scientific, technical-practical approach to the world; in practical terms it is the categorical imperative. For formal logic to be capable of relevance for cognition we only arrive at the perception of appearing being as facts in a model-like system of contradiction-free content. The reconstruction of ethical consciousness here then only brings us to a contradiction-free universality of the categorical imperative, which as universal lawfulness acquires no more character than that of a mere demand.

1.3 *Relevance of Dialectical Logic*

The second fundamental prerequisite for speaking of normativity can only be justified on the ground of Hegel's philosophy: *normativity presupposes that reflection or subjectivity is thought of as self-mediating self-identity*. This is, briefly put, the decisive achievement of Hegel's *Logic* with respect to transcendental logic (*a fortiori* with respect to formal logic). Let us take a look at some relevant results of Hegel's *Logic*.

1) We begin with the progress beyond Kant as we find it in the *Logic of Essence*: It is certainly the case that transcendental logic is reflection of reflection, although here this is not executed within logic itself, but by an assumed external understanding, which is what performs the transcendental reflection (and which for Kant definitely cannot claim to be cognition). The form of reflection is not developed as an self-moving negative unity, but remains a presupposed highest principle, whose self-maintenance conditions, which are to be assumed as principles, are developed. But how can this *principium* be thought together with its *principiatum*? The unity of the two must remain aporetic since the transcendental logic strives for nothing other than presenting the conditions of possibility of the objective validity of formal logic. This is why transcendental logic cannot grasp logical form *as* a unity of determination and determiner, of reflection in itself and reflection in another; although it must presuppose this as a condition for its own possibility.

At first sight it may appear that Hegel's *Logic of Essence*—compared to the early Fichte also—is a “more abstract” presentation of pure subjectivity, because in Hegel the semblance of an assumed principle is overcome.⁷ Herein

⁷ A recurring misunderstanding lies in the accusation that Hegel's *Logic* has a “subjectivity” as the foundation of logical movement. In *Being* we have no subject at the foundation. It is only

lies precisely Hegel's progress in fundamental philosophical terms beyond the principle-based version in the transcendental philosophy. Pure subjectivity is comprehended as self-referential negativity.⁸ This is the step in the *Logic of Essence* beyond Kant's notion of the one logical form. Hegel's *Logic of Essence* thinks reflection consistently through to the end in that the contradiction—and reflection is contradiction: the identity of setting identical and setting different—is not avoided, but thought through and thereby resolved.⁹

2) The second and decisive step beyond Kant lies in thinking of subjectivity as concept, as the unity of being and essence, of consciousness in general and *tode ti*. Hegel's concept is neither merely a being nor an essentiality or universal determination; instead it is the unity of essence and being—i.e. the universal that gives itself an adequate existence, that gives itself actuality. The Hegelian concept of the concept (Begriff) is the logical I thought of as, speaking with Aristotle, *energeia* or *entelecheia*. The activity of the concept is comprehending *actu*, the self-continuation of the universal into singularity, into actual knowledge. Hegel speaks of the *existing concept* and Bruno Liebrucks calls the concept existing as concept the “human concept.” With that thinking *actu* is incorporated into logic clearly putting distance between it and the Kantian reflection level. The Kantian I is consciousness in general, just as reason should be *pure*, released from all attachment to the empirical. *The methexis of this given individual in pure reason is in Kantian terms an assumption that is not justified*. In contrast, Hegel thinks of logical form as subjectivity, thus as the totality of mediation particularizing itself, in this way giving itself objectivity, and encountering itself as mediation within this objectivity, merging itself with itself. This movement of self-continuation of the universal logical form is what is individual.¹⁰ And this is thinking not as *judgement* in the context of

in *Essence* that we reach the beginning, one that is not made, but which is itself the *beginning actu*. It is only in the nothingness of reflection, as semblance, that what we call being has its persistence. We arrive at a *subjectum* only in the status of essence. The *Logic of Essence* gives the genesis of subjectivity, while in the *Logic of the Concept* Hegel treats of actual subjectivity as the unity of universal and individual consciousness, as the automotive subject-object identity. Cf. Düsing 1995, Chapters 3 and 4.

8 “Negativity” can be understood as a transcending of immediacy in which, however, immediacy as such first gains persistence.

9 This is explicated in the *Semblance* chapter in the *Logic of Essence*. In *Being* there was no self-relation as equality with itself; there equality with itself remained merely a task. Essence, however, is the equality of the negative with itself, thus the equality that only is as negation of the negative, as *self-producing equality* (Kant speaks in this sense of “action of the understanding”). This is why essence does not transit into another; it is the essence that is the basis upon which we can hold fast to something determinate in general instead of seeing it immediately vanish into the Heracleitean river of being.

10 On the concept of the individual cf. the study by Unlger 2017.

Kant's single scientific experience, but as *syllogism*. We find this form of mediation of itself with itself, this returning to itself from out of its other again in the purpose: *the purpose, as self-realizing concept, is concrete and with that individual universal*. Purpose here is not a representation located somewhere in a head with consciousness as the common understanding of the term might have it; instead it is the concept itself.

Logical form takes as its purpose not something external to it (like formal logic); it is rather comprehended as the goal that realizes itself. This realization or actualization is explicated by Hegel's theory of ideas. The realizing and always self-realizing, thus never *solely* "normative," goal is the idea, *correspondence* (Entsprechung) as such. Only on the ground of correspondence—of language¹¹—can human beings build a self-knowing self-relation, i.e. set goals providing guidance as unmoved movers in both theoretical and practical terms. Thus all realization of goals is only possible because the goal as idea always governs objectivity (in the sense of Hegel's *Logic*) in advance,¹² or: inner purposiveness or teleology is the truth and presupposition of mechanism, chemism and external teleology. By demonstrating this Hegel's *Logic of the Concept* is the most concrete presentation of the presuppositions for speaking of normativity.

Let us now summarize our results so far.

1) The concept conceived of in terms of formal logic is supposed to be able to act as an organon for constructing unambiguous statements about what Kant calls objects of appearance. The concept conceived in this way is not in and for itself purpose (precisely thought of as the movement of its realization), but a fixed means whose goal lies outside it, in the application for the production of unambiguous objective determination. There where formal logic governs the style of thinking, normativity means the demand for self-conservation

11 It follows from Hegel's *Logic* that not only thinking *actu* but also language (in its three moments as language in general (Sprachlichkeit), as particular language and as individual speech act) is not external to logical form. This thesis was worked out by Bruno Liebrucks in relation to Vico, Hamann, Herder and Humboldt (Liebrucks 1974). One can—and must—certainly differentiate between the logical content of speech from the speech itself, something that already occupied Parmenides and Heraclitus, in order to be able to justify the difference between meaningful speech and kenology. But then again this distinction is not possible without language. On the relation between logic and language cf. Hoffmann 2013. Only formal logic could believe itself capable of developing a *lingua mentis* independent of language by means of mathematics.

12 This thought runs right through the entire tradition. The first to utter it—if he did not execute it—is Anaxagoras, whom Aristotle thus praises as the "sober one" among the drunks of the pre-Socratic thinkers (Metaphysics 1, 3). Plato's *Timaos* (the third speech, among others) is also relevant here, as well as the rank of the *causa finalis* in relation to the *causa efficiens* in Aristotle's theory of four causes; and Leibniz as well.

of the understanding in all references (*suum esse conservare*), the striving for immediate self-preservation. Transcendental logic demonstrates under what assumptions and within what limits this is effectively possible. From Hegel's standpoint it must be said on this: such thinking loses precisely that which it wants to hold on to—the life of being-conscious, of spirit. With Hegel we learn how to think, initially in the *Phenomenology of Spirit*, that the self only maintains itself by losing itself. Clearly holding fast to a level of consciousness in the sense of the understanding is a necessary moment. But then the life of the spirit consists in bearing the death of a consciousness level, which meets its downfall precisely in what it regards as essential to it and seeks to fix. Bearing the death of a level of consciousness is simultaneously the rebirth of the new level. Self-conservation *as* self-loss—for a thinking that subjects itself to the demand of merely avoiding the contradiction, this thought leading as it does into life and into freedom, can only be nonsense.

2) Transcendental logic demonstrates that the means character of logical form is only then *a priori* to be secured for the exact sciences and technical practice if logical form is *not merely* a means, but is grasped instead as mediation as such in the sense of the *original* synthetic unity of transcendental apperception. Then logical form is already comprehended as a *necessary* means without which we would not have any objects and no content of consciousness. Now, logical form is not developed in transcendental logic explicitly *as* a unity of mediation and means, a self-articulating unity of object-determination and self-determination. This is why no existence can be “drawn out” of the Kantian concept of the concept, certainly not that of the concept itself. In transcendental logic logical form is certainly thought of as forming form, but the movement of thinking here stands, to put it in Hegel's terms, as stated above, in the status of essence. It is certainly objective reflection—thus the reflection that as it were encounters itself from outside, from its object (all objectivity is known to be universal subjectivity). But then this reflecting movement in the transcendental logic is only a seeming motion—within it reflection fundamentally never gets beyond itself, but remains in the space of those necessary settings it undertakes for its contradiction-free self-maintenance. *This motion of semblance and the normativity characteristic to it is to be distinguished from the actual motion of the concept; only in this latter does being by itself within its own other become possible.* In the concept what is true is not just the mediation, but the self-moving unity of mediation (subjectivity) and its immediacy (objectivity). The concept, actual thinking, is always in advance the return to itself from out of its submergence in something immediate, objective—a motion (“negativity”) that is not possible without language.

3) This has an important consequence for the purpose concept in transcendental logic. Whereas for Kant (and for the early Fichte) the mediation of itself with itself, the fulfilled form of the self-relation in cognition and action remains a task (theory of ideas, theory of postulates), Hegel's fundamental insight is that reason is not so weak when it comes to realization, but is on the contrary always already on the pathway to its realization. For Hegel this does not eliminate the ought, but preserves it in its moment character in the motion from *dynamis* to *energeia*.

4) If the purpose or the rational always realizes itself, then freedom is never *only* normative, but also always "factual." In the section on the idea of the good we learn that without the presupposition that the good is already actual, no human being could act ethically¹³—he would never be able to develop his moral consciousness. Thus ethical consciousness constructs itself initially by being challenged by another I to freedom and ethical life. So there is such a thing as the normativity of the factual in the sense of lived ethical life.¹⁴

It is equally true that qualified freedom is, grasped dialectically, never *only* spontaneous ("spontaneous causality"), but always also receptive, namely receptive to the characters of demands it encounters. This is where we at last arrive at human actuality, which is not the model world of scientific experience, but in which we are confronted with something that is just as much sensuous as it is intelligible, something that is *inherently meaningful* and which demands an answer from us. This is exactly what Kant presupposes in the "humanity formula" of the categorical imperative when he demands: here is a self-purpose, treat him not merely as a means! It is thus no longer about fitting an object into a model of the world without contradiction and thereby being able to dominate it, but instead we initially abstract from the immediate desire to dominate

13 "Everyone who actually acts ethically proves with that that he has assumed it [the actuality of the good, M.G.] at least implicitly or in itself, if not also for itself and has not gotten bogged down in Kant's theory of postulates." (Liebrucks 1970, 178).

14 As is well known, in Aristotle we find the first systematic ethics based on this notion. Kant's ethics too presupposes an actual ethical consciousness, although he attempts to reconstruct this in a new way. Nevertheless it is from Hegel that we first learn why a systematic ethics has to begin this way. This is not subservience to existing conditions, as the philosopher was accused of later. For the great thinkers of the tradition always ask after criteria for the rationality of ethical life against which the existing conditions have to be measured.

contained in the *suum esse conservare*. Only then can we open ourselves so far to the encounter with actuality that what Hegel calls being by itself within the other can happen.

We will now concretize what has been said on purpose with a view to production.

2 Actual Purpose in the Context of Production

We proceed from Hegel's insight that the concept is not merely an essence that sets goals, but *is itself goal*. The goal is according to Hegel "the concept in free existence" (Hegel 2015a, 155)—free because it is "the concept that has arrived at itself in and by objectivity" (Hegel 2015a, 161), which "is absolutely torn away from being determined externally as in mechanism" (Hegel 2015a, 157). We want to interpret this conception in the following in view of the production of a product (*poiesis*), which, considered logically, stands in the status of teleology. For it is precisely in production that we set up an opposition between subjective and objective, ideal and real, normative and factual, and between goal and its realization. On the other hand it is important to note that the process of production is not itself to be comprehended in the sense of the presupposition of a separation of the two sides. This point is also fruitful in elucidating the relationship between Kant and Hegel. For Hegel's distance to Kant is not first revealed in the conception of the living as immediate idea contrasting with the conception of natural purpose in Kant, nor in their approaches to the reconstruction of ethical consciousness, but already in the treatment of the presuppositions of technical practice.

2.1 *I is Purpose*

What are the conditions of the possibility of setting a goal? Setting and following a goal is something I can only do as a Hegelian concept, as "being-conscious (*Bewusst-Sein*)" (Liebrucks 1966, 244). At first it is already with Kant clear: no natural being sets goals. If we speak of setting goals or of ought-demands, then the human being cannot be merely a natural being. Setting goals presupposes self-consciousness and freedom—according to Kant this all belongs to the noumenal character. In setting goals man confronts nature, taking himself as goal against nature. How then is this possible? Kant does not analyze this in greater detail, but presupposes that man participates in the noumenal character by means of a "faculty." We do not get any further with Kant. What remained unmentioned by Kant was developed by Hegel—as one can initially

say in complete generality—from out of the concept of thinking. Man is the concept existing as concept and when we ask what belongs to setting goals, then the answer to this question lies in holding apart and thinking together the moments of the will—which for Hegel are simultaneously the moments of the concept or of freedom (Hegel 2015b, §§5–7). We want briefly to take a closer look at this now.

Will and goals can only be set by a being that can say “I” to itself. Because only in the self-knowing self-relation is it possible to accomplish that tearing away of itself from its immediacy, its inclinations, desires and natural impulses. I am not immediately determined by natural instincts in advance, for I can abstract from all contents and initially *theoretically* relate myself to everything that I find within me as contents of consciousness (cf. Liebrucks 1966, 323). This is the first moment: thinking of itself, “absolute abstraction” in the sense of self-differentiation of the I in its universality (of the form *I think*) from all contents of consciousness. It is the first negation or the immediacy of negativity: stepping out of nature, the repelling of all particularity from the I.

The second moment consists in myself *abstracting from that abstracting*, that I negate the first negation and with that *set* the particularity from which I initially abstracted as a whole. The will does not will in general, it wills something determinate; it sets a determinate goal. In deciding for a determinate goal, e.g. to produce a specific product, the will sets itself a barrier as determination in itself—freely without ceasing to be a universal: it is “*particularity* reflected *in itself* and led back to *universality*” (Hegel 2015b, 34). Thinking as will is the execution of its concrete universal—with this thought Hegel goes beyond Kant. It is not merely abstract negativity, which only destroys content, but the concrete negativity that produces determination in the first place (Liebrucks 1966, 323). In this context it also becomes clear what the self-continuation of the universal means: particularity (thus this given wish as goal) is now set *within universality*. Determinate purpose stands in the form of self-knowing or in Kantian terms: the form “I think”; as such it is *known* purpose (motive). The prerequisite for holding fast at all to a determinate goal in its realization is the first moment, the identity of self-consciousness. As a Humean “bunch of impressions” I could not hold together the identity of a goal for one second, because “I” would always have already been dissolved into the succession of contents of consciousness, without it being the case that such a succession would be *for me*. Without the self-continuing self-relation of the universal in the pure form of self-consciousness—again something which in formal logical terms can only appear to be nonsense—man could not survive even biologically for one day. The first moment is, by the way, also the reason why we do not

lose ourselves in merely wishing, in a dreamy willing that does not make it to realizing a goal. We have to be able to tear ourselves away from mere wishing, from *boulesis*, in order to be able to set an actual goal.

The third moment, the moment of singularity, consists in the fact that in determination the I, the will, consolidates itself with itself—and this certainly not in an imagined interior world; it must be emphasized that this consolidation with itself happens *in the encounter with the world, in the engagement with the object*. Concept or will is “the process of engagement with the world” (“Weltauseinandersetzung”) (B. Liebrucks). This moment too stands within the universality of self-knowing. Otherwise it would be impossible to imagine the steps in the labor process, to order or oversee them, to realize them one after the other, to find adequate means for them or to measure these against the goal, etc.

Thus the purpose does not break down into fixed oppositions that we imagine as givens (universal-single, subjective-objective), but is instead the process in and through which the opposed terms first attain their relative independence. The motion of the goal is the motion from the universality to the singularity of the concept; in other words, the motion by which subjectivity gives itself objectivity and returns back into itself from out of that in order to attain an actual and free self-relation (cf. Hegel 2015b, §§25 and 26). Clearly the reflecting understanding initially differentiates in production the sides of the goal, in that it holds the plan and the product apart from each other. In the technical-practical perspective that is legitimate and useful. However, we must not come to a standstill at this point. It is vital to see that the sides distinguished here are moments of a motion of the self-realizing concept. From this follows that the representation of the goal must be distinguished right from the start from the mere wish. The goal is—thinking with Hegel—not only a merely subjective representation located in something given in consciousness (cf. Hegel 2015c, 95), but is the motion of realization, the translation of subjectivity into objectivity.¹⁵ I already act when I set a goal; the goal, as actual goal, has “already always begun with the realization” (Liebrucks 1966, 325). This is how the goal of building a house realizes itself not first at a specific point in time that we can determine with respect to the means that we deploy (e.g. when the architect receives the contract or the workers come), but already with the representation of the goal, which is the first step in its realization. The goal, to the extent that we *hold fast* to it as subjective, is for this reason determined by Hegel to be a lack—a lack not simply as *steresis* in the sense of absence, but that which,

15 For the philosophy of reflection the will is *only* subjective (cf. Liebrucks 1966, 324), which is why for this standpoint the possibility of acting at all must remain a riddle.

like the instinct of the living, drives beyond itself (Hegel 2015a, 160–164).¹⁶ This “drive” of the goal is the drive—this motion of becoming a self—for executing the realization of the concept: initially in self-objectifying that always has to do with a self-forgetting in objectivity (if the production of the product is to be successful, then I have to wholly “immerse” myself “in the matter”) from out of which I in fact reach myself again as a free being. Free—because the subjective goal is that which translates itself into objectivity and *is by itself within that*. The goal mediates between the highest opposites—the universal and singular, subjectivity and objectivity. Hegel’s *Logic* thus shows that we only think the goal when we think the unity of subjectivity and objectivity—no matter whether we use the concept of purpose, or intend it to be understood, in the sense of the reflecting power of judgement in a merely heuristic manner in order to be able to utter statements *de re* (Liebrucks 1966, 322).

2.2 *Poiesis*

The mediation mentioned above, which the goal is itself, reveals itself in that the planning should be present in every step of the production, directing them. The unity of universality and singularity must continue itself and may never get lost if something is to be produced: “The product is in the world only if within the concept it was the ground of the production *and if* this universal concept remains contained in the single product.” (Liebrucks 1966, 334) The universal concept (the goal as plan) has to remain contained in the single product for this should be the manifestation of the plan in which the universal of the plan individualizes itself in its execution. Conversely the planning will have to take the mechanical and chemical laws into account that the singular parts of the material are subject to (Liebrucks 1966, 315). Thus if we take a look at the realization of the goal, we see that this is an occurrence that is determined both by mechanism (in the broad sense of the mediation external to itself in the framework of objectivity), as well as by the goal. As a goal realizer I have to keep both aspects in view: mechanism as the given singular and the goal as plan, the universal, if the goal is to be capable of being realized. On this once more Liebrucks: “Only attention to the presence of the mechanical laws within the teleological ones makes the production of anything possible,” (Liebrucks 1966, 315). I myself as concept, as goal, am the translation of mechanical causality into the teleological causality. Thus in the goal mechanical and teleological causality are inseparable—but then it is not the case that both sides stand on the same level. For it is the goal that presupposes mechanism

16 This meaning of lack or deficiency is the real sense involved in speaking of man as a “deficient being” (“Mängelwesen”) in the context of anthropology.

and chemism as means to its realization. Realizing a goal is nothing other than using mechanical causality for teleological causality.

This is not to be incorporated in the theory with Kantian means, which is clear in Kant's conception of production.¹⁷ Why do I build a house? To collect rent. Here the goal as concept is: a) universal in the representation of the rental earnings, b) singular as realized goal in the given house and in the specific revenue (Liebrucks 1966, 331). The goal is ground as *causa finalis*. But in what sense? According to Kant the ground for the construction of the house already lies in the *representation* of the house construction (the concept *qua* representation). Thus Kant presupposed that in the goal the concept as abstract universal (as representation) can determine the singular. This is, however, not at all clear, for, to resort once more to the well-known technical metaphor, no existence can be "drawn out" the Kantian concept. This means nothing other than that the concept as abstract universal and the abstract singular as object are separate (independent of the notion of object constitution by the logical form). Kant conceals this impossibility behind the veil of a presupposed "faculty" of man to be able to set goals. Thus Kant first gives what is, from Hegel's point of view, a technical-practical representation of goal instead of thinking the goal itself (Liebrucks 1966, 334). The representation of the rental revenue, the goal of the plan, is only the basis—the real ground of the house construction is not the representation, but the anticipated actual rental revenues. The plan proceeds on the assumption of rental revenue in the future, not simply from possible revenues. In the teleological process what happens in the future is both prior to what is present as well as not so, because the realization is subject to the chronological sequence of mechanical causality.

As actual mediation the goal is the concretization of the syllogism or more precisely: the mediating middle term. For indeed the middle term in the syllogism is the unity of singularity and universality. Goal-directed action is thus the active middle that draws the opposed terms together in a conclusion: universal or subjectivity (the goal as plan) and singular or objectivity (realized goal). *Every goal is an individual self as this "circular motion" of subjective goal via the middle to the executed goal (product) and with that back to itself.* (Liebrucks 1966, 330) If on the other hand one proceeds from the formal-logical assumption of the abstract universal, that is from the logic of subsumption, it is impossible to conceive of this actual middle, which is the goal as actual concept.

17 Cf. Kant 1974, 320 (B 290). On the concept of purpose in Kant see Liebrucks 239–322 and Klingner 2013.

The executed goal is never merely an object or alterity with respect to subjectivity; instead subjectivity is found in the object as goal. This is why I behave *eodem actu* both in the production and in the use of the means with respect to myself. It is the condition of possibility for me when I form an object to conform it to my needs, to form myself (Liebrucks 1966, 313). In the formed, transformed natural thing I do not only experience alterity, but identity in non-identity, which also remains present. Here already we arrive at a “self-viewing of the self in the product” (Ungler 2017, 331)—something which is also central to Hölderlin’s “*Über die Verfahrungsweise des poetischen Geistes*”—“On the Procedure of the Poetic Spirit”—in which one can distinguish the following aspects:

- 1) Freedom in general I meet objectively as the transcending of nature (negativity) (Liebrucks 1966, 314). Every artefact we find shows that here freedom has manifested itself.
- 2) Determinate freedom I meet as a real possibility of using the product as a means, as relief from being exposed to the forces of nature.
- 3) My skill and my knowledge are objectified in production. When I build a house, in being formed the material acquires something of myself. When I live in the house I acquire from the product what I have given it as if from someone alien to me (Liebrucks 1966, 327). The subjectivity that I objectively encounter there is not that of an isolated I-center, but that of the individual as a process of engaging with the world. The social relations that made this possible appear in it too. If I am the builder, my conception of myself as a goal that should be served by this product as means also appears to me in the formation of the product (Liebrucks 1966, 330). In every goal I set up in the framework of a system of goals and to the realization of which I undertake action, I show it and demonstrate it as what I understand myself and my world to be.
- 4) In the world of machines man encounters his technology and science and to the extent that he has disciplined himself to be a being exercising understanding (in Kant’s sense), man has achieved the domination of nature. Here lies the sufficient reason for the almost reverential admiration for technical gadgets.
- 5) Occasionally in the encounter with certain artefacts my history, which I have in common with others, my relations with the world or my position in society can become objective for me (as happens with so-called status symbols).

These aspects may serve to illustrate the fact that the notion of a strict separation of something that is only subject as interior world over here and something that is only object as positivity over there, a goal as purely normative here

and a product as the real thing on the other side is not tenable even in *poeisis*. Subject and object are identical, but identical within their non-identity, which is also contained in it.

Summarizing this second part we can say that even in *poeisis*, I never come to a self-relation immediately, but only via the detour of engagement with the world. The concept realizes itself through the detour of its productions (Liebrucks 1966, 314). Thinking the goal means thinking that the concept being within itself is simultaneously outside the concept “on this earth with its natural and human-social relations,” (Liebrucks 1966, 506). We do not need to turn Hegel upside down from walking on his head back onto his feet to find our way to these thoughts.

2.3 *Concluding Remarks*

The existing concept has to transcend the status of teleology. For external teleology, in its realization the goal does not arrive at itself *as* goal, but only as means (cf. Ungler 2017, 327). The idea as complete correspondence, as *free correspondence* between subjective and objective is not yet attained in teleology. It is based on the help of objectivity *forced* by the cunning of *techne* as mechanical, chemical and biotic process. The logical presupposition for all production turns out to be the corporality of the living individual and its inner teleology.

Subject-objectivity does certainly realize itself in production, but absolutizing this stage corresponds to what Hegel in the *Phenomenology of Spirit* discusses under the title the “animal kingdom of the spirit” (Liebrucks 1966, 331). The goal man then sets would be irrelevant, for everything he does and does not do would be “in its way” good as long as it was an “authentic” self-expression of the individual. All setting of goals would be no more than practiced perspectivism. It appears to be no small danger for our time that, with the help of technical self-mirroring and the associated affirmation of external teleology, we maintain a philistine and obstinate attachment to this level of consciousness. The result of this is that in our self-interpretation we do not attain an understanding of ourselves *as purpose*, but only as means.

For these reasons we may not ignore the fact that already in production man’s character as existing concept manifests itself. We have to start getting serious about thinking of the existing concept as purpose. Already in production it is the case that the goal that I set and realize individualizes the goal or the concept that I myself *am*. *It has thus clearly been logically justified by Hegel, indeed already in the concept of the concept, that man has to be taken seriously not only as means but also as goal* (Liebrucks 1966, 312). Kant’s formulation of the categorical imperative can only be supported if the intelligible character

itself, which reveals itself in man as a faculty of setting goals, can never be regarded solely as means. Logically this thesis remains unproven by Kant.¹⁸

In his *Logic of the Concept* Hegel shows how *persisting normative standards* are attained against which the rationality of our practice is measured—and against which Hegel's own reconstruction of ethical life in his *Philosophy of Right* has to be measured. Every age should rethink its ethical life. This does not open the door to arbitrariness, but instead means that lived freedom must be amenable to being measured by the notion of the unity of *purpose and means*. Do we now live under social and political relations in which the citizens as parts and the whole of the state are simultaneously means and purpose (cf. Liebrucks 1966, 307)? Are there new or disguised forms of the state of nature within the state and civil society in which man is only recognized in his character as means? How far has the dismantling of the state of nature between the sovereign states themselves come?

(translated by David Healan)

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¹⁸ In Hegel's conception of purpose the inner context is revealed in addition to what in Kant are the spheres of the technical-practical and of ethical life, which are strictly separated.

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Hegel über die logischen Grundlagen der Sittlichkeit

Klaus Vieweg

Hegels Anspruch auf die Grundlegung praktischer Philosophie in der *Logik* bringt folgende Stelle aus der *Rechtsphilosophie* klar zum Ausdruck: „daß das Ganze wie die Ausbildung seiner Glieder auf dem logischen Geiste beruht. Von dieser Seite möchte ich auch vornehmlich, daß diese Abhandlung gefaßt und beurteilt würde.“¹ Der Gedankengang muss als auf dem *logischen Geiste beruhend* verstanden werden. In dieser Art des *philosophischen Beweisens*, der denkend-begrifflichen Legitimation liegt der *Nervus probandi* des gesamten Gedankenganges.² Kurz die zwei Ausgangspunkte der folgenden Überlegungen:

Erstens: Die Abhandlung der Moralität in der Rechtsphilosophie findet ihre logische Grundlegung in den Formen des Urteils. Zweitens: Die Moralität wird als defizitäre oder einseitige Stufe traktiert und hier auch die Kritik an Kants moralischer Weltanschauung vorgetragen. Das Defizitäre liegt nun zuallererst in der logischen Form des Urteilens, dass selbst defizient bleibt, was in der Wissenschaft der Logik belegt wird. Hierin liegt das Fundament der Hegelschen Kritik an Kants Moralphilosophie. Es muss von der Logik des Urteils zur Logik des Schlusses, zur Kontextualität freien Handelns fortgegangen werden.

Der Begriff stellt im Status des Urteilens noch nicht eine Totalität dar, in der jedes Moment das Ganze ist. Der Mangel liegt in der noch fehlenden Identität der Momente *Einzelheit* (E)—*Besonderheit* (B)—*Allgemeinheit* (A).³ In Rücksicht auf die höchste Form des Urteils, auf das apodiktische Urteil (der höchsten Form des Begriffsurteils) verweist Hegel dezidiert auf die jetzt eingetretene Präsenz des Moments der *Beschaffenheit* oder der *Kontextualität des Handelns*,

1 Hegel, Georg Wilhelm Friedrich. 1820. *Grundlinien der Philosophie des Rechts*. Werke in zwanzig Bänden. Theorie Werkausgabe. Auf der Grundlage der Werke von 1832–1845. Neu edierte Ausgabe. Redaktion Eva Moldenhauer und Karl Markus Michel. Frankfurt a. M.: Suhrkamp-Verlag, 1969 ff. [TWA] Bd. 7, [RPh] 12f.

2 Dazu ausführlich: Vieweg, Klaus. 2013. *Das Denken der Freiheit. Hegels Grundlinien der Philosophie des Rechts*. München: Wilhelm Fink Verlag.

3 Ludwig Siep macht auf die logische Verankerung des Übergangs zur Sittlichkeit im Übergang vom Begriffsurteil zur logischen Form des Schlusses aufmerksam. Siep, Ludwig. 1992. *Praktische Philosophie im Deutschen Idealismus*, Frankfurt a. M.: Suhrkamp Verlag, 228.

dass eine Handlung der Gattung ‚Schenken‘ bzw. ‚Fehlinformieren‘ in dieser speziellen Beschaffenheit, in diesem Zusammenhang gut *oder* schlecht sein kann.

Die Latenz der besonderen Einzelheit auf der Stufe der Moralität tritt hier hervor und verlangt den logisch unabdingbaren Übergang *vom Urteil zum Schluß*, zum *Zusammen-Schließen* als Einheit zwischen der einfachen Identität des Begriffs, worin das Urteil zurückgeht (der Schluss gilt so als ‚Wiederherstellung des Begriffs‘), und der Unterschiede seiner Bestimmtheit als Objektivität. Dies bedeutet den Rückgang des formellen Rechts und der Moralität *in ihren Grund*. Formelles Recht und Moralität können ‚nicht für sich existieren‘—, sie müssen das Sittliche zum Träger und zur Grundlage‘ haben,⁴ denn ‚dem Recht fehlt das Moment der Subjektivität, das die Moral wiederum für sich allein hat‘, beide Momente haben so ‚für sich keinen Gehalt, kein Bestehen‘ (RPh, §141, Z).

Auf dem Gipfelpunkt des moralischen Handelns, im Handeln des moralischen Subjekts, tritt die Schlussstruktur als triadische Form schon ans Licht, sie ist implizit vorhanden, kann aber vom einseitigen moralischen Standpunkt aus nicht zureichend erfasst und voll eingeholt werden. Das schon diagnostizierte Defizit liegt im Problem der *Allgemeinheit des besonderen Einzelnen*, in der Art und Weise der *Objektivierung*. Moralische *Subjektivität* denken heißt auch *Zusammenschlüsse* denken, daran anschließend begreift Hegel die *Sittlichkeit* als ein sich entfaltendes allgemeines Selbstverständnis der besonderen Einzelnen, das sich in einem normativ-sittlichen Selbstbewusstsein der Subjekte sowie in Gesetzen, Vereinigungen und Institutionen manifestiert.

Der Terminus *Sittlichkeit* ist ein Novum im modernen Denken, damit hat Hegel eine neue und wirkungsmächtige Kategorie in die praktische Philosophie eingeführt, die aus dem heutigen Diskurs nicht mehr wegzudenken, ja zu einem Schlüsselbegriff modernen Nachdenkens über die praktische Welt aufgestiegen ist. In der Abhandlung des Sittlichen sind eine die traditionellen Muster auflösende Theorie der Familie und eine auf der philosophisch höchst relevanten Unterscheidung von bürgerlicher Gesellschaft und Staat basierende innovative Philosophie des Sittlichen versammelt. Diese repräsentiert die höchste Stufe von Hegels Philosophie praktischer Freiheit, die *Vollendung des objektiven Geistes*.

Auf Hegels modernen Begriff des Bürgers und der Bürgerschaft fußt die Hegelsche Theorie der sozialen Gemeinschaft und eines sozialen Staates, damit ein modernes Verständnis von Gerechtigkeit.

4 Der Begriff des Einzelnen ist die Grundlage, der Träger der Bestimmtheiten des Allgemeinen und Besonderen.

Axel Honneth hingegen liest Lehre von der Sittlichkeit als ein normative Theorie der Moderne, besonders Hegel politische Philosophie soll als Gerechtigkeitstheorie interpretiert werden, die „vielleicht gerade unabhängig von dem argumentativen Rückhalt seiner Logik eine große Überzeugungskraft besitzt“, und welch Wunder: „Wie von alleine treten nämlich bei einem derartigen Vorsatz die logischen Schlüsselbegriffe, die sich der Seins-, Wesens- oder Begriffslogik verdanken, in den Hintergrund“.⁵ Mit diesem Verfahren wird der Hegelschen Konzeption von Sittlichkeit das eigentlich philosophische Fundament entzogen und Philosophie auf kritische Sozialtheorie, auf eine ‚normative Strukturanalyse moderner Gesellschaften‘ verkürzt.⁶

Die Sittlichkeit wird von Hegel in Gestalt eines logisch fundierten Systems der allgemeinen Willensbestimmungen konzipiert, als das Objektive der Freiheit. In diesen nicht auf Willkür oder Meinung, sondern auf Wissen fundierten Formen der Objektivität kann der Wollende und Handelnde bei sich selbst sein, die Subjekte konstituieren diese als ‚ihre Heimat, als ihr Eigenes, nicht als ein Joch‘,⁷ sondern als das von ihnen selbst gegebene Gesetz. Der Begriff freien Handelns erfährt eine entscheidende Fortbestimmung. „Das Selbstbewußtsein weiß das allgemeine als das Wesentliche seines eigenen Willens.“⁸ Die Idee der Freiheit entfaltet sich in einem System ihrer Bestimmungen, deren Grundstruktur die folgende bekannte Stelle skizziert:

In der Sphäre der *Sittlichkeit* selber fangen wir dann wieder von einem *Unmittelbaren*, von der *natürlichen, unentwickelten* Gestalt an, welche der sittliche Geist in der *Familie* hat, kommen darauf zu der in der *bürgerlichen Gesellschaft* erfolgenden *Entzweiung* der sittlichen Substanz und gelangen zuletzt zu der im *Staate* vorhandenen *Einheit* und *Wahrheit*

5 Honneth, Axel, 2001. *Leiden an Unbestimmtheit*, Stuttgart: Reclam, S. 78, 123. Bezeichnend ist ebenfalls, daß dem Kernpunkt des Sittlichen, dem Staat, einige ganz wenige und bloß kursorische Bemerkungen gewidmet werden. Hier spürt der Honneth-Leser ein echtes ‚Leiden an Unbestimmtheit‘ und es offenbart sich in besonderer Weise die Achillesferse der Verbanung der Hegelschen Logik. Die Gedanken über das politische Zusammen-Schließen auf der Basis der Lehre vom logischen Schließen kommen in überhaupt nicht zu Sprache. Das Herzstück der Hegelschen Lehre der Sittlichkeit wird so zu Unrecht völlig vernachlässigt.

6 Dies wird belegt durch Stellen, in denen Honneth gegen die Schlusslogik argumentiert und stattdessen bei Hegel ein „hellwaches soziologisches Bewußtsein“ diagnostiziert und die Übersetzung des Logisch-Metaphysischen in stärker soziologische Begrifflichkeiten vornimmt (Ebd., S. 92f.).

7 *Hegel. Vorlesungen über die Philosophie des Rechts*. Berlin 1819/1820. Nachgeschrieben von J.R. Ringier. Hg.: Angehrn, Emil, Bondeli, Martin und Seelmann, Hoo Nam. Hamburg 2000, 85.

8 *Hegel. Philosophie des Rechts. Die Vorlesung von 1819/20 in einer Nachschrift*, Hg.: Dieter Henrich, Frankfurt a.M. 1983, 122.

jener beiden einseitigen Formen des sittlichen Geistes.—Aus diesem Gange unserer Betrachtung folgt jedoch nicht im mindesten, daß wir die Sittlichkeit zu etwas der Zeit nach *Späterem* als das Recht und die Moralität machen oder die Familie und die bürgerliche Gesellschaft für etwas dem Staate in der Wirklichkeit *Vorangehendes* erklären wollten. Vielmehr wissen wir sehr wohl, daß die Sittlichkeit die *Grundlage* des Rechtes und der Moralität ist, sowie daß die Familie und die bürgerliche Gesellschaft mit ihren wohlgeordneten Unterschieden schon das Vorhandensein des Staates *voraussetzen*.⁹

Sittlichkeit versteht Hegel als die *Idee* der Freiheit des Willens, als Begriff der Freiheit und dessen angemessene Verwirklichung. Sie ist Ausdruck des in sich allgemeinen, an und für sich seienden Willens—Ich als Denkender will das Allgemeine, Ich bin das Wollen des Allgemeinen und in dem Anderen als einem wahrhaft Allgemeinen oder Objektiv-Vernünftigen bin ich bei mir selbst. Der sittliche Wille hat im Subjekt, im Selbstbewusstsein, und in Formen der praktischen Welt die seinem Begriffe gemäße Wirklichkeit. Im Sittlichen sind Gedanken, Gesinnungen, das *freie Selbstbewusstsein* als die subjektive Komponente, mit den *selbstgegebenen Gesetzen* und *selbstkonstituierten Institutionen*, der objektiven Seite, synthetisiert, *mind and world as ethical life*. Anderes gesagt: Es handelt sich um ein *vernünftiges Zusammen-Schließen* von Subjekten, die logische Form des Schlusses wird sich als Grundpfeiler ausweisen. Der sittliche handelnde Akteur muss sich des Inhalts seines Tun als eines Objektiven, eines an und für sich gültigen bewusst sein, erst durch eine solches Bewusstsein kommt der Handelnde zur Selbstbestimmtheit, zur wirklichen, inhaltvollen Freiheit. Dabei gewinnen die Einzelnen in diesen Verbindungen ihre Erfüllung, ihre Selbstbestimmung, es entstehen echte *Gemein-Wesen* wie Familie und Staat, Formen des ‚Einesseins der Einigen‘ (RPh, § 142, A). Die Idee der Freiheit tritt hier als das *lebendige Gute* hervor, als der *zur Welt gewordene* Begriff der Freiheit hervor. „Das Gute ist hier nicht in ein Jenseits, in eine moralische Weltordnung versetzt, sondern es ist wirklich und gegenwärtig.“¹⁰

Besondere Signifikanz erhält die Stufe bzw. die Sphäre zwischen Familie und Staat, die bürgerliche Gesellschaft als ‚die in ihre Extreme verlorene Sittlichkeit‘, das für die Gewinnung von subjektiver Freiheit unverzichtbare Sich-Selbst-Entfremden des Sittlichen. Dieses eigentümliche Reich der Besonderheit in Gestalt des zerrissenen, entfremdeten Sittlichen besitzt transitorische Relevanz, bildet einen unabdingbaren Durchgangspunkt in der

9 Hegel. *Enzyklopädie der philosophischen Wissenschaften*. TWA Bd. 10 [Enz], § 408.

10 Hegel. *Philosophie des Rechts. Die Vorlesung von 1819/20 in einer Nachschrift*, 122.

Entfaltung moderner Sittlichkeit hin zu einem Staat der Freiheit. Darin haben wir eine bis heute bemerkenswerte Offerte für ein zureichendes und konsistentes Verständnis moderner Gesellschaften, für das Verstehen von Modernität schlechthin, das ganz im Hegelschen Sinne *argumentativ*, durch begreifendes Denken ausgebaut werden kann.

In dieser Bedeutung—Idee der Freiheit—erscheint das Sittliche als *Zweck*, als das *lebendige Gute*, als der zur *vorhandenen Welt* und zur *Natur des Bewußtseins* gewordene Begriff. Darin wird auf den gesamten letzten Abschnitt der Lehre vom Begriff der *Wissenschaft der Logik* rekurriert, auf die Einheit von Subjektivität und Objektivität, auf den Weg von der Schlusslehre (speziell dem System von Schlüssen) über Teleologie und Leben bis hin zur Einheit der Idee des Erkennens und des Guten. Bereits die *Logik* muss, wie schon mehrfach betont, als dynamisches System der *Selbstbestimmung des Begriffs*, als Theorie von Selbstbestimmung und Freiheit gelesen werden. Das Sittliche muss als ein solches logisch fundiertes *System der Bestimmungen der Idee der Freiheit* erschlossen werden, der Idee in Gestalt des objektiven Geistes. Sowohl die subjektive als auch die objektive Seite benötigen eine Legitimation, die nur das Denken liefern kann, nur die Logik als Wissenschaft des Denkens. „Die *wahre* Freiheit ist als Sittlichkeit dies, daß der Wille nicht subjektive[n], d.i. eigensüchtige[n], sondern allgemeinen Inhalt zu seinen Zwecken hat; solcher Inhalt ist aber nur im Denken und durchs Denken“ (Enz § 469).

Von Dieter Henrich wurde schon vor langer Zeit—mit Hinweis auf Hegels Rede über den Staat als eines Systems von drei Schlüssen—die Forderung nach Aufklärung dieses logischen Aufbaus des Sittlichen und speziell des Staates erhoben. In den Beschäftigungen mit den *Grundlinien* dominiert zumeist die Position des notwendigen Verzichts auf den metaphysischen Grund und damit das insuffiziente Steinbruch-Verfahren. Im Weiteren soll uneingeschränkt der Strategie gefolgt werden, die systematischen Intentionen, die logische Fundierung und die innere Formation des Hegelschen Denkens freizulegen. Wenig helfen die Versuche, den sog. metaphysischen Ballast abzuwerfen und Hegels Theorie bloß als Steinbruch zu gebrauchen. Das Ergebnis solch völlig unangemessenen Verfahrens sind nur staunenswerte, tote Ruinen und Bruchstücke ohne Zusammenhang hinterlassen.

Die logischen Pfeiler der Architektonik des Sittlichen sind wenigstens in Grundkonturen herauszuheben, was bereits erheblichen Interpretationsaufwand impliziert. Eine umfassende Interpretation von Hegels praktischer Philosophie müsste sich diesem Feld noch eingehender widmen. Der im Übergang zur Sittlichkeit vorfindliche Terminus des *Zusammen-Schließens* hat seine logische Verankerung in der *Schlusslehre* der *Wissenschaft der Logik*, welche wiederum die Brücke zur Objektivitätslehre schlägt. Folgende Ecksteine dieses Zusammen-Schließens sind zu berücksichtigen:

1 Praktische Schlüsse—,Zusammen-Schlüsse‘

Sittlichkeit **Schluss**

A) Familie

A) Schluss des unmittelbare Substantialität
Daseins natürlicher sittlicher Geist

B) Bürgerliche Gesellschaft

B 1) Schluss der Reflexion

Substanz als Geist sich abstrakt in viele Personen
besondernd, die in selbständiger Freiheit und als
Besondere für sich sind;
die Einzelnen sind durch ihre Besonderheit, ihre
besonderen Bedürfnisse, mit der Allgemeinheit
zusammengeschlossen;
die ‚in ihrer Extreme verlorene Sittlichkeit‘

B 2) Schluss der Notwendigkeit—kategorischer, hypothetischer und
disjunktiver Schluss

a) kategorischer Schluss	Rechtspflege
b) hypothetischer Schluss	Aufsicht und soziale Hilfe
c) disjunktiver Schluss	Korporation

Wiederherstellung des Sittlichen (Aufsicht und soziale
Hilfe; Korporation als zweite sittliche Wurzel des Staates)

C) Der Staat

System von 3 selbstbewußte sittliche Substanz,
Schlüssen Wirklichkeit der sittlichen Idee

a)	Inneres Staatsrecht
b)	Äußeres Staatsrecht
c)	Weltgeschichte

1.1 *Schluss und Zusammen-Schluss*

Die generelle Relevanz der Figuren des Schlusses—Figur 1: E—B—A; Figur
2: A—E—B; Figur 3: B—A—E (die in ihren jeweiligen drei Unterformen

insgesamt 9 Schlussformen ergeben) liegt darin, „daß alles Vernünftige [wie etwa der Staat] sich als ein dreifacher Schluß erweist, und zwar dergestalt, daß ein jedes seiner Glieder ebensowohl die Stelle eines Extrems als auch die der vermittelnden Mitte einnimmt.“ (Enz § 187 Z) Um die Differenz zum Urteil und um das logische Gewicht des jetzigen Übergangs wenigstens anzudeuten, sei ein Rückgang zu den drei „Ur-Paragraphen“ der *Rechtsphilosophie* gestattet: § 5 exponiert die Allgemeinheit des Ich, § 6 die Besonderung des Ich und § 7 schlussendlich die Einzelheit des Ich als die Einheit der drei Momente. Hier operiert Hegel aus völlig triftigem Grunde mit der Wendung von der *Selbstbestimmung des Ich*. Die sich selbst bestimmende Allgemeinheit, der für sich freie Wille bildet die Idee der Freiheit. Die Einzelheit bleibt in ihrer Besonderung als Allgemeinheit bei sich selbst, *schließt sich nur mit sich selbst zusammen*. Die Gedanken von Selbstbestimmung und Freiheit prägen wesentlich (auf je unterschiedlicher Weise) sowohl den Argumentationsweg der Logik als auch den der praktischen Philosophie.

Es geht jetzt in der Sphäre der Sittlichkeit, um den freien Willen als substantiellen Willen, um den Gedanken der Freiheit des Willens, der Sich-selbst-Gleichheit, des Bei-sich-selbst-Seins im Anderen auf der höchsten Stufe, um „die Idee in ihrer an und für sich seienden Existenz“. „Die Sittlichkeit ist die *Idee der Freiheit*“—„der zur vorhandenen Welt und zur Natur des Selbstbewußtseins gewordene Begriff der Freiheit.“ (RPh § 33, § 142) Die subjektive Freiheit ist zugleich als der an und für sich allgemeine vernünftige Wille. Für die Logik des Rechts, des freien Willens bedeutet dies, daß im dritten Schritt, der Sittlichkeit, abstraktes Recht und Moralität *zusammen-geschlossen* werden, aber eben nicht als *mixtum compositum* bzw. als bloße Synthese, sondern in Form der Einheit der drei Schlussfiguren.

Die Schlusslogik, die schließende Vernunft durchläuft den Weg hin zum Schluss als einem vollständigen, gelungenen Zusammenhang des logischen Selbstbestimmens und zwar in Gestalt einer Triade, eines Kreises von Kreisen, hin zu einem ‚selbsttragenden‘ Schluss. Bei diesem Fortgang, bei diesem Entwicklungsweg geht es um eine Begründung als vorwärtsgehender Rückgang in den Grund. Das Urteil in allen seinen Formen ist nicht durch sich selbst begründbar, es verlangt nach einer Legitimation, die nur der Schluss liefern kann. Das Schließen enthält wesentlich die Negation der Bestimmtheit des formellen Rechts und der Moralität, der logischen Formen des Begriffs und des Urteils, die Aufhebung von personaler und moralischer Freiheit, so daß dieses Zusammen-Schließen nicht mit etwas Anderem, sondern mit dem *aufgehobenem* Anderem (aufgehobenes abstraktes Recht und aufgehobene Moralität in den drei Dimensionen des Aufhebens) erfolgt, daher *mit sich selbst*. Somit kehrt der Begriff als Dreifaches von Schlüssen zunächst zu sich selbst zurück, zurück aus seiner Ur-Teilung, der Unterschied von Einzelheit, Besonderheit

und Allgemeinheit wird überwunden. In dem darauf fußenden System steht *jedes dieser Schlussglieder sowohl als Mitte als auch als Extrem*.

Jedes Moment als Begriffsbestimmung repräsentiert im vollendeten Schluss (als der vollständigen Darstellung des Begriffs) selbst das Ganze und den vermittelnden Grund. Diese in den drei Schlussfiguren erreichte Identität fehlte dem Ur-Teilen. Im Unterschied zu einer verstandesmäßigen Deutung des Schlusses tritt hier das Moment der Negativität unabdingbar ein—in der Form der Triplizität der Bestimmungen, „weil das Dritte [die Sittlichkeit] die Einheit der zwei ersten Bestimmungen [abstraktes Recht und Moralität] ist, diese aber, da sie verschiedene sind, in Einheit nur *als aufgehobene* sein können.“¹¹ Dieses Dritte—die *Sittlichkeit*—kann so als ein *Mit-sich-selbst-Zusammenschließen* gedacht werden und zwar des *Begriffs*, der sich in seinem Anderen auf sich selbst bezieht und *sich selbst bestimmt*. Der Schluss erweist sich daher als Fortbestimmung des Begriffs, worin letzterer seine Selbstbestimmtheit höchster Stufe erreicht, aber zugleich seine ‚Unterbestimmtheit‘ manifestiert, denn er ist nur Begriff in Form der Subjektivität, noch nicht Idee als Einheit von Subjektivität und Objektivität.

Sittlichkeit beinhaltet die dynamische Einheit von ‚erster‘ Identität—der Persönlichkeit—und der Nicht-Identität—der Moralität (der Sphäre der Separation, der Ur-Teilung, der Differenz), Sittlichkeit bedeutet die Einheit, die konstitutive Verschränkung von ‚fester‘ (unantastbarer) Persönlichkeit und sich entwickelnder dynamischer Moralität, die ‚Wieder-Herstellung‘ der Einheit von Begriff und Urteil im logischen Schluss. Die Dynamik der Schlüsse, ihre Selbstbewegung impliziert, dass die Einheit des Sittlichen nicht im Muster der einfachen Reproduktion zu verstehen ist. Sie beinhaltet auch das im Aufschluss neu Erschlossene. Wie die Philosophie auf diese Weise substantielle Innovationen der einzelnen Wissenschaften aufnimmt, so integriert die moderne Sittlichkeit neue Formationen und Gestalten des Zusammenschließens im Rahmen der drei Hauptstufen ihrer Entfaltung: Auf der Ebene der Familie entwickeln sich im Vergleich zu Hegels Zeit z. B. neue Formen von Lebensgemeinschaften oder Familien, in der bürgerlichen Gesellschaft neue Instrumentarien zur Regulation der ambivalenten Innovationen der industriellen Marktgesellschaft (Vereine zur technischen Prüfung, Kartellämter, Börsenaufsicht über den Aktienhandel, kreative Arten sozialer Hilfe durch Vereine und Verbände) oder im Staat entstehen bisher nicht gekannte Arten der politischen Partizipation (Bürgerinitiativen, Bürgerbewegungen), insgesamt eine Vielfalt neuer Lebensformen. Damit wird Hegels Konzeption moderner Sittlichkeit stets zu bereichern, zu konkretisieren, zu aktualisieren sein, dennoch behalten die Grundkonstituentien des Sittlichen ihre volle Gültigkeit.

11 Hegel. *Wissenschaft der Logik*, TWA Bd, 6 [WdL], 565.

1.2 *Ein Ganzes von drei Schlüssen*

Im Praktischen repräsentiert der Staat ein solches System von drei Schlüssen und als ein solches Ganzes könne er wahrhaft nur als „Dreiheit von Schlüssen derselben *terminorum*“ (Enz § 198), nur als ein solcher logisch fundierter Zusammen-Schluß verstanden werden (WdL, 356). Alle diesen Punkt vernachlässigenden, anti- oder nachmetaphysischen Lesarten von Hegels praktischer Philosophie, besonders der Staatsphilosophie, laufen den Intentionen des Verfassers diametral entgegen und verfehlen letztendlich den eigentlichen Gehalt dieses Denkens moderner Sittlichkeit.

„Was ist *Sittlichkeit*? Daß mein Wille als dem Begriff gemäß *gesetzt sei*—seine Subjektivität aufgehoben sei [...] Anerkennung des Objektiven.“ (RPh § 142, A) Besonders in der Kernkategorie der *Objektivität* und ihres Übergehens in die Idee, im *Zweck*, manifestiert sich, daß der Begriff die Gestalt der Realität anzunehmen hat. Der Zweck ist kein formaler Schluss, sondern ‚der Begriff in seiner Existenz‘, die Einheit von Subjektivität und Objektivität. Im § 111 spricht Hegel von der Objektivität des Begriffs im Sinne der Allgemeinheit und Wahrheit.

Die Stufenfolge solcher Zusammen-Schlüsse reicht bis zur Sittlichkeit als eines *sich entwickelnden Systems* der Bestimmungen der Freiheit, bis hin zur Idee der Freiheit, worin der Begriff des freien Willens seine vollständige Bestimmung erreicht, insofern er der zur Welt und zur Natur des Selbstbewusstseins gewordene Begriff ist. So sind abstraktes Recht und Moralität zusammengeslossen: die *Freiheit der Person* und die *Freiheit des moralischen Subjekts* in der *Freiheit des sittlichen Subjekts*. Speziell der Staat als *Wirklichkeit der sittlichen Idee* repräsentiert ein solches sich selbst strukturierendes und sich selbst entfaltendes System der Vereinigung, die höchste Form des freien Willens, der sich *denkt und weiß*. Hier haben wir einen Wille, der den freien Willen will, eine vernünftige, vom begreifenden Erkennen und Denken gestützte soziale und politische Gemeinschaft von Bürgern, welche den wahrhaften Inhalt und Zweck der Freiheit darstellt—eben ein Werk des Zusammen-Schließens des allgemeinen Interesses mit den besonderen Interessen der einzelnen Bürger. Allein auf der Basis des begreifenden Denkens kann eine Legitimation des Politischen, des Staatlichen gelingen; andere Instanzen sind insuffizient und freiheitsgefährdend.

Sowohl formell rechtliches Tun als auch moralisches Handeln erfüllen nur jeweils eine Seite des Begriffs des freien Handelns, müssen als *aufgehobene Momente des sittlichen Handelns*, des wirklich freien Handelns genommen werden. Sollten entweder das Prinzip des abstrakten Rechts oder das moralische Prinzip die Sittlichkeit dominieren, so wäre dies die größte Schwäche als der *tieftste Despotismus* und der gänzliche Verlust der Idee einer sittlichen Organisation, weil das moralische Prinzip wie das des bürgerlichen Rechts

nur im Endlichen und Einzelnen ist. Resultieren würde eine Herrschaft formalrechtlichen Typs (Reduktion der Gemeinschaft auf Verträge und der Heiligung des formalen Rechts, speziell des Eigentumsrechts) oder die Diktatur von Moralaposteln und ‚Gutmenschen‘. Aus diesen beiden eindimensionalen Positionen des formell-rechtlichen Personalismus und des Moralismus erwachsen bis heute Attacken auf Hegel: Zum einen wird die regulierende und gestaltende Macht des Staates als unzulässiger Eingriff in das formale Recht missdeutet—Muster: ‚Steuern sind Staatsdiebstahl‘ oder ‚Der Staat solle den Markt ‚frei‘ walten lassen und sich auf die Rolle als Straßenbauer und Nachtwächter beschränken.‘ Zum andern wird der dem Geist und dem Buchstaben von Hegels Abhandlung zuwiderlaufende Vorwurf erhoben, in der Sittlichkeit würde die Moralität untergehen (E. Tugendhat). Auch wird verlangt, dass Staat und Politik auf bloß subjektiven Gewissensentscheidungen basieren und die politischen Akteure als Moralwächter agieren sollen. Die beiden Sphären des Urteils, der Ur-Teilung—abstraktes Recht (E—A) und Moralität (B—A)¹²—werden in der Sittlichkeit zusammengeschlossen. Der Schluss ist ‚die Wahrheit des Urteils‘ (WdL, 359). Auf dieser dritten Stufe des objektiven Geistes rückt *die Idee* als Begriff des Rechts und seine Verwirklichung ins Zentrum. Sittlichkeit ist die Kategorie zur Beschreibung der Idee im Sinne ihres wirklichen gemeinschaftlichen Lebens, worin abstraktes Recht und Moralität ihren eigentlichen Grund haben, deren Weg führt notwendig zu ihrem Grunde, zur Sittlichkeit. Das Gute kann nicht in ein Jenseits, in eine moralische Weltordnung versetzt sein, sondern es ist wirklich und gegenwärtig. Zu Recht verweist Fulda darauf, dass die Sozialität nicht das einzige und grundlegende Merkmal von Sittlichkeit darstellt. Sie besteht darin, dass ‚die subjektive Freiheit des freien Geistes in Gesinnung und Betätigung (als Gewohnheit und Sitte) unmittelbare und allgemeine Wirklichkeit und eine zweite Natur dessen geworden sind, der in solcher Freiheit lebt—eine dem freien Willen adäquat gewordene Objektivität.¹³

Speziell in den Darstellungen in den §§ 144 und 145 *Rechtsphilosophie* finden manche Interpreten Gründe dafür, Hegels praktische Philosophie als Konzept der Anpassung, der Akkomodation, der Servilität, der Unterwerfung, des Autoritären oder gar des Totalitären zu denunzieren. Mit dem objektiv Sittlichen sind Gesetze und Einrichtungen, auf die gemeinschaftliche Existenz bezogene Handlungsprinzipien und Institutionen angesprochen, das Gute als die *durch die Subjektivität konkrete Substanz*. Die Substantialität

12 B hat zu E auch die Formbestimmung eines A und zu A die Formbestimmung eines E, weil diese Beziehungen überhaupt Urteile sind.

13 Fulda, Hans Friedrich. 2003. *Georg Wilhelm Friedrich Hegel*, C.H. Beck, München, 213, 211.

des Individuellen liegt in den sittlichen Bestimmungen, die sittlichen Mächte haben erst durch die Individuen als Akzidenzen dieser Substanz ihren Bestand. Dabei muss unbedingt das in der *Logik* vorgetragene Verständnis von der Substanz und den Akzidenzen in Rechnung gestellt werden. Das System der sittlichen Mächte hat diese Autorität – und das ist von entscheidender Bedeutung – *nur weil* und *nur insofern* die sittlichen Bestimmungen dem Begriff der Freiheit ausmachen bzw. genügen, *nur dann*, wenn sie auf dem Gedanken der Freiheit fußen. Objektivität meint hier uneingeschränkte Geltung des Vernünftigen im freien Zusammenschluss. Im anderen Falle müsste dieses System als ein Konglomerat ungeistiger Gesetze und ungeistiger Institutionen bezeichnet werden. Die Prinzipien des formellen Rechts und der Moralität verlieren keinesfalls ihre Gültigkeit, sie erhalten ihre eigentliche Kraft im sittlichen Kontext.

Einen neuralgischen Punkt bildet der letzte Satz von § 147 *Rechtsphilosophie*: Die adäquate Erkenntnis der Gründe für unser Verhältnis zu den sittlichen Mächten gehört dem denkenden Begriffe an. Zur Beurteilung von Gesetzen und Gewalten kann nicht nur auf Vertrauen und Reflexion gesetzt werden, auch wenn diese für die tagtägliche Handlungsvollzüge unabdingbar bleiben. Der Mensch müsse ins *Gericht des Denkens* gehen, alles unvoreingenommen prüfen, d.i. *begreifend* denken. Für sittliches Handeln müssen die einzelnen Zwecke auf einem allgemeinen Inhalt ruhen, dieser gehört dem denkenden Willen an. Ein sittlicher Inhalt kann somit *ausschließlich* derjenige sein, der aus dem Begriff der Freiheit hervorgegangen ist. Hegel kann in *keiner* Weise eine Position der Unterwerfung unter das Gegebene fixiert, niemals Denker der Knechtschaft ist, im Gegenteil: Alle Inhalte des Zusammenlebens müssen der Prüfung durch das Denken unterzogen werden, bevor sie als objektiv gut oder frei qualifiziert werden können. Dabei handelt es sich um einen Prüfvorgang, der stets neu zu vollziehen ist – vor diesem Tribunal des Denkens müssen sich *alle Gedanken, Gesetze und Institutionen* legitimieren, bevor sie als gut bzw. frei gelten können. Das sittlich handelnde Subjekt ist so kein Knecht, keine Marionette, sondern macht wollend das Gesetz zu seinem Zweck. Jegliche ‚ungeistigen‘ Gesetze und ‚ungeistigen‘ Verhältnisse müssen im ureigenen Interesse des Subjekte ausnahmslos benannt, attackiert und überwunden werden—das ist die Botschaft der Hegelschen *Rechtsphilosophie*, seines *Idealismus der Freiheit* als einer modernen Theorie der Gerechtigkeit, die ihr Fundament in der *Wissenschaft der Logik* hat.

How is Practical Philosophy Speculatively Possible?

Christian Krijnen

1 Practical Philosophy as a Problem

The systematic significance of the question posed results from the history of transcendental philosophy. It therefore concerns a complex problem. The complexity essentially stems from Kant's philosophy, its conception, problems, and possibilities. More precisely, it concerns Kant's architectonic of reason. Regarding the method of presentation of this issue, the complexity stems from the fact that I shall try to sound out a consequence evolving from a series of investigations of freedom in transcendental philosophy and Hegel that I have conducted in recent years. The results of these investigations are presupposed and hence this article is rather synthetic. Although the discussion of the implied consequence is the main issue, let me first roughly sketch its background!

In line with tradition, Kant divides philosophy into a theoretical and a practical branch and the corresponding objects into nature and freedom.¹ Whereas theoretical reason aims at objects that are *given* from elsewhere—by sensory intuition—practical reason is related to objects that it *creates* itself, for practical reason concerns the determination of the will. Corresponding to this view, theoretical reason's relation to an object consists in, as Kant says, the “mere determination” of the object, which is theoretical knowledge of reason. Practical reason, in contrast, is concerned with “realizing” its object (in accordance with the knowledge of it), which is practical knowledge of reason.² Kant conceives of practical as “everything that is possible through freedom” (*CPR* B 828).

As Kant himself did not offer a deduction of this division, in an early phase of the development of German idealism, attempts had already been undertaken

1 Cf. *CPR* B 868 f., B 830; *CPrR* 15; *CJ* 167 f., 171, 174, 178 f., 416, etc. See for Kant's architectonic also Krijnen (2011, 2016).

2 Cf. *CPrR* 89 with *CPR* B IX f. and *Gr* 426. See, for instance, also *CPrR* 15, where Kant defines practical reason as a power to produce or cause objects corresponding to our representations, or *CPrR* 57, where practical reason is conceived of as the representation of an object as a possible effect of freedom. For Kant, being an object of practical reason signifies the relation of the will to the action by which the object would be realized. Put in terms of Kant's two-world theory: The moral law gives to the sensible world (sensible nature) the form of an intelligible world (supersensible nature) (*CPrR* 43).

to establish a more original relationship of reason. Such attempts in one way or another also are incorporated in the development of later forms of idealism, e.g. of neo-Kantianism and its concern to sublate the discussion on a (somewhat unkantian) primacy of practical reason initiated by Fichte, shorn of its practical connotations, transforming the primacy of practical reason into a comprehensive idealism of freedom. South-West neo-Kantianism (inter alia Wilhelm Windelband, Heinrich Rickert, Bruno Bauch, Jonas Cohn) paradigmatically shows that normative constraints are not only constitutive for the practical realm but make up the foundation of the whole human world, of its theoretical and practical or whatever dimension. The distinguished realms of culture or validity are all specifications of the fundamental axiomatic relation.³ The fundamental axiomatic relation concerns a relationship between values (laws of validity, determinants of orientation), the valuing subject, and cultural goods. This value-determined *self-formation* of the subject finally concerns values intrinsically or immanently part of its own subjectivity, so called autonomous values. This, *mutatis mutandis*, also holds for the post-war transcendental philosophy of Wagner (1980) and Flach (1997). From a systematic perspective, the fundamental axiomatic relation deals with the unity of theoretical and practical reason, discussed so vehemently since Kant. Such a primacy of reason as a primacy of self-formation of the subject by specific values or sets of values, however, discloses its practical format. The approach of the fundamental axiomatic relation therefore entails the problem of the *specific* determinacy of practical philosophy. What can the specifically practical be after it has been *axiomatized*, that is to say, after it has been conceptualized as a universalized relationship of self-formation of the subject: how is practical philosophy still possible?⁴

It turns out that the practical in its axiomatized or universalized form either way is the dimension of realizing validity or values (in the sense of shaping reality according to values qua determinants of orientation for subjects, tasks of formation). The result of forming reality according to values is culture. Culture has its determinacy as a value-laden reality and, hence, as a result of human self-formation according to values, or to put it differently, to ideas, validity, or reason. Culture is the existence of freedom. Yet the existence of freedom transpires to be too complex to be determined sufficiently within the context of the fundamental axiomatic relation, characteristic of Kantian transcendental philosophy. In essence, the general problem of the approach of the fundamental

3 See on the fundamental axiomatic relation in detail Krijnen (2001, Ch. 2.3, 6.3, 7.2 f.; 2008, Ch. 4.2.2; 5.4; 2015, Ch. 3 f.).

4 I have addressed different aspects of this issue in: Krijnen 2014a; Krijnen 2014b.

axiomatic relation seems to be that it sticks to the influential idea, also guiding Kant, that freedom should be conceived of as a causal power of the subject that determines itself in accordance with its own laws of validity.⁵ The fundamental axiomatic relation therefore is loaded with formalism, as pertinently and paradigmatically argued by Hegel with regard to both Kant's theoretical and practical philosophy (Krijnen 2018b). According to Hegel's criticism of Kant's formalism, for methodic reasons, Kant does *nolens volens* not succeed in comprehending the existence of freedom. Despite the fact that transcendental philosophy aims to interpret principles not in a "mere formal" but in a transcendental sense, freedom conceived of as a causal power is characterized by formalism: in the causal relation form and content are and remain opposed to each other externally. The very same thing applies to the fundamental axiomatic relation (Krijnen 2018a).

Hegel, in contrast, overcomes the architectonic of reason prevailing in transcendental philosophy, which is the architectonic oriented towards the opposition of theoretical and practical reason (Fulda 2004; Krijnen 2014b). Hegel does not so much come to a division of the system of philosophy in the realm of culture as results of human self-formation as to a division of the logical, nature, and spirit as dimensions of the absolute idea that recognizes itself in them. Therefore Hegel arrives at a conception of self-formation as self-knowledge in the fashion of a self-realization of the concept. As a result, the relationship between validity and realization pervasively obtains a different format than in the model of self-formation, typical of transcendental philosophy. At the same time, by his speculative conception of the realization of the concept and, as a consequence, his concept of *Sittlichkeit* (facticity) Hegel eliminates the formalism that accompanies the idea of actualizing freedom in Kantian transcendental philosophy. As Hegel concisely observes, due to its formalism Kant's conception of the good misses a "principle of determination" (*Enc.* §508). That is to say, Kant's transcendental philosophy misses exactly the methodical moment—decisive for Hegel's speculative idealism—that sublates any externality between oppositions: the "realization of the concept."⁶ For this reason, "form" and "content" ("matter"), or to put it more concretely and with a view to practical reason, "nature" ("drives and inclinations") and "freedom" (categorical imperative of morals) remain opposed to each other externally.

However, Hegel pays a price for his speculative conception. He conceptualizes the system of philosophy as a monism of the idea that knows itself as the

⁵ Cf. for Kant's model Krijnen (2017).

⁶ By moments intrinsically belonging to the concept itself: universality, particularity, and singularity.

foundation of everything. Philosophy as a science is philosophy of the idea or, more precisely, the absolute idea (*WL GW 12:236*), i.e. the “concept that comprehends itself” (*sich begreifende Begriff*) (*WL GW 12:252*), the “absolute truth and all truth” (*Enc. §236*; cf. *WL GW 12:236*). Therefore, the idea is not a being (*Seiendes*). Instead, the absolute idea proves itself to be the method, i.e. the processuality proper to the determinations of pure thought, treated in the *Science of Logic*, together with the system of these determinations of thought. So conceived, philosophy does not plague itself with substrates of representations, or any other “pre-given.” The absolute idea contains all determinacy within itself (*WL GW 12:236*). Containing all determinacy in itself, the idea is not exhausted merely as a logical idea. Taking the whole of philosophy into account, the absolute idea is addressed by Hegel in three perspectives of determination: within pure thought, within nature, and within spirit.⁷ These are conceived of as a “manifestation” of the idea. For Hegel, manifestation is an activity of something absolute. Something truly absolute only expresses itself (*WL GW 11:375 f.*, 397 f.; *Enc. §§139, 142R, 151*). That which manifests itself is only determined by itself; it is truly primarily free or, as Hegel says—the concept is that which is free (*Enc. §160*; cf.; *WL GW 12:16*).

2 Hegel's Philosophy of Spirit is Not Practical Philosophy

Not only is the concept that which is primarily free; it is also the case that Hegel's philosophy of spirit is not practical philosophy, even if the formula “Hegel's practical philosophy” is on the lips of many scholars. Yet the philosophical system outlined by the mature Hegel in his *Encyclopedia* is not practical philosophy. In contrast to Kant's practical philosophy, Hegel does not address the practical from its own perspective. Rather, he thematizes it from the perspective of (self-knowledge of) the idea. His system is throughout a doctrine of the idea, comprehending thought of the One idea. In the course of his conception of philosophy as a speculative doctrine of the idea, Hegel needed not to sublate the restrictions of both theoretical knowledge within the idea of the truth and practical knowledge within the idea of the good (*WL GW 12:192 ff.*). Moreover, in the philosophy of spirit, he also had to sublate the opposition between the theoretical and the practical operations of the spirit into a doctrine of free spirit (*Enc. §§445 ff.*). The terminus of Hegel's philosophy of subjective spirit and starting point of his philosophy of objective spirit is indeed *free* spirit as a unity of theoretical *and* practical spirit. Hegel's philosophy of spirit certainly

7 See for this and what follows Krijnen (2008, Ch. 4.2.1.2).

offers formal and substantive points of contact for practical philosophy or ethics beyond Hegel's own views, but Hegel's philosophy of spirit is neither of these. Instead of pursuing practical philosophy, Hegel intends to overcome the opposition between theoretical and practical philosophy from within and to sublate it in a higher, more original unity.⁸ For Hegel, "practical" philosophy is a deficient form of knowledge, inadequate to his concept of philosophy. Consequently, it is not a basis for any of the disciplines of his philosophy of reality (*Realphilosophie*). Hegel's system of philosophy thematizes theoretical and practical knowledge, including their objects, not from *their own* perspectives. Correspondingly, Hegel's system provides neither practical knowledge nor theoretical knowledge. Instead, it comprehends these types of knowledge speculatively within the system of philosophy.

What, then, can practical philosophy be within the context of Hegel's mature philosophy? If one does nothing more than consider the persisting practical-societal problems we are facing, the conclusion could be drawn that Kant's project of practical philosophy, a philosophy of the practical not from the perspective of the absolute idea but from the perspective of the practical, is too important to dismiss.

In order to answer the question posed above, a more determinate concept of Kant's practical philosophy is required. The feature of the practical as opposed to the theoretical has been mentioned before. The same applies to the feature that the practical concerns the dimension of the existence of freedom: practical reason is concerned with "realizing" its object. Now, the *duty-theoretical* profile of the practical needs to be emphasized.

Seen from the perspective of the architectonic of reason, the dimension of actualizing freedom makes up the initial determinacy of the object of practical philosophy. The philosophy of nature deals with "all that *is*, the philosophy of morals with that which *ought to be*" (*CPR* B 868, cf. B 830). Whereas here the aspect of freedom as something that ought to be, and hence is to be actualized, takes center stage, this pointed emphasis continues in Kant's further elaboration. He distinguishes both directions of reason as follows. Whereas theoretical reason aims at objects that are *given* from elsewhere—by sensory intuition—practical reason is related to objects that it *creates* itself, for practical reason concerns the determination of the will. Corresponding to this view, theoretical reason's relation to an object consists in, as Kant says, the "mere determination" of the object. Practical reason, in contrast, is concerned with

8 See for Hegel's Frankfurt period, for instance, Siep (2000, 29 f.) and for the *Phänomenologie* Cobben (2009).

“realizing” its object (in accordance with the knowledge of it).⁹ Kant straightforwardly defines the faculty of desire as a being’s power “to become by means of its representations the cause of the actual existence of the objects of these representations” (*CPrR* 9R, cf. *MM* 211). As capacity of choice (*Willkür*), the faculty of desire for Kant is a sensuous causality; a free capacity of choice is a power to cause effects in the sensible world by reason.

By doing so, Kant exposed freedom in such a way that it becomes thematic as an ought. Moreover, Kant grants this ought a *duty-theoretical profile*. More precisely, he addresses it from the start from a duty-theoretical perspective. This results not so much from Kant’s architectonic itself but rather from Kant’s elaboration of his architectonic. In the first instance, Kant’s foundation of practical reason is only concerned with constituting a reality determined by freedom. Based upon this, in the second instance, this reality can be determined in terms of a specific moral (*sittlich*) validity determinacy. In this respect, we can diagnose a break between the general foundation of practical reason up to § 7 of the *Critique of Practical Reason*, constituting the practical itself in its positive determinacy, and the specific moral (*sittlich*) profile that Kant then grants to this constitution and in so doing, to his practical philosophy (from § 8 and in the *The Metaphysics of Morals*). Kant qualifies facticity, which is a reason or freedom-determined reality, in the perspective of morals (*Sittlichkeit*) as morality, right (*Recht*), and virtue (*Tugend*). Human action qua facticity is thematic in terms of morals.

Kant’s focus on the moral validity determinacy of the practical leads him to a duty-theoretical elaboration of this validity determinacy. The moral law is the “basic law of pure practical reason” (*CPrR* §7) and accordingly Kant’s doctrine of *Sittlichkeit* a doctrine of *duty* (cf. e.g. *MM* 218 f., 379), more in particular of duty as an unconditional, absolute ought based upon a non-natural (empirical) law of reason for the inner and outer use of the human capacity of choice (*Willkür*). In his foundational works, Kant discusses duty with regard to its form and in his *Metaphysics of Morals* with regard to its matter. Kant’s doctrine of *Sittlichkeit* is a conception of freedom in terms of an ought, a doctrine of commands (and prohibitions) or, to be more precise, of an unconditional or moral-practical ought.

9 Cf. *CPrR* 89 with *CPR* B IX f. and *Gr* 426. See, for instance, also *CPrR* 15, where Kant defines practical reason as a power to produce or cause objects corresponding to our representations, or *CPrR* 57, where practical reason is conceived of as the representation of an object as a possible effect of freedom. For Kant, being an object of practical reason signifies the relation of the will to the action by which the object would be realized. Put in terms of Kant’s two-world theory: The moral law gives to the sensible world (sensible nature) the form of an intelligible world (supersensible nature) (*CPrR* 43).

3 Hegel's Conception of *Sittlichkeit*

These elaborations on Kant's foundations of practical philosophy prompt some discussion of Hegel's concept of *Sittlichkeit*. For Hegel's concept of *Sittlichkeit* is a concept of the actuality of freedom that *precedes* Kant's moral profiling of freedom. It concerns a general conception of the *actuality* of freedom, not a conception of freedom as an *ought* (though the actuality of freedom is intrinsically linked to freedom as an ought).

In this respect it is decisive that Hegel thematizes the realm of *Sittlichkeit* from the perspective of the idea. Such a conception of the actuality of freedom precedes the conception of freedom in terms of an ought conceptually. As a consequence, the meaning of, for example, the concept of duty is framed differently than in Kant's analysis of it. The point for Hegel here is that we only have concrete, not mere abstract duties only in the realm of *Sittlichkeit*. Hegel's doctrine of *Sittlichkeit*, inasmuch as we take it a doctrine of duties, is a doctrine of duties as the development of the constellations that are necessary from the idea of freedom and therefore actual (*Rph* §148R). Hence, Hegel's philosophy of right is not a practical philosophy, striving to develop an ethical and judicial code of norms. It is a philosophy of spirit that aims to comprehend objective-spiritual constellations first in their relevance for the actuality of freedom. Duties as concrete duties are first possible within this normative space. Therefore, facticity as the concrete existence of freedom, i.e. *Sittlichkeit* in Hegel's sense, is presupposed by a Kantian conception of *Sittlichkeit* (Krijnen 2018b).

4 Speculative Practical Philosophy

What does this mean for the attempt to find out the proper place for a Kantian metaphysics of morals in Hegel's speculative philosophy? It means that we need to find a thematic point of contact within the philosophy of *spirit*. Where precisely would a metaphysics of morals be a topic for philosophical investigations? As we know, Kant's metaphysics of morals is conceived of as a doctrine of duties for finite subjects (sensible rational beings). More precisely, this doctrine concerns persons, that is to say subjects who can be held accountable for their actions (*MM* 222). In a Kantian metaphysics of morals the subject is conceived of as the agent of a deed, and hence, the originator of an action that is subject to "laws of obligation" (*MM* 222). Such a constellation is thematic in Hegel's philosophy not before the sphere of *objective* spirit. In the philosophy of subjective spirit the spirit is constituted itself as the subject of its activity. Accordingly, the practical production of subjective spirit is, as

Hegel says, “not yet deed and action” (*Enc.* §444). Only on the level of objective spirit can subjects as natural-rational entities become a topic of philosophical determination.

Locating a Kantian metaphysics of morals in the system of philosophy therefore boils down to finding a point of thematic contact in Hegel's philosophy of objective spirit. The task of Hegel's philosophy of spirit is anyway to comprehend the actuality of freedom, which is its initial determinacy from the perspective of the architectonic of reason. In terms of locating a metaphysics of morals, abstract right can be eliminated. The reason for this is that it cannot assert the feature of duty, characteristic for a metaphysics of morals. To put it differently, within the framework of an objective conception of freedom, right functions as a given. It therefore abstracts from the capacity of the subject to determine itself as much as possible. Against this, the voluntative capacity of self-determination is emphasized in the subjective concept of freedom as the standpoint of morality. Yet within the framework of a subjective concept of freedom, the capacity of self-determination takes center stage to such an extent that the generally binding aspect of duty, and hence that which characterizes a duty as a duty, is dissolved to the maximum extent. Within a Hegelian conception of abstract right and morality, a metaphysics of morals as a doctrine of right and virtue in a Kantian fashion can only be addressed in a distorted form. Apart from the fact that abstract right does not thematize the rules of virtue and morality not those of right, before the realm of *Sittlichkeit*, i.e. the rational concept of freedom, the topic of a metaphysics of morals could not be discussed in its positive meaning for a speculative philosophy of objective spirit. This positive meaning concerns the significance of the rules of a metaphysics of morals, that is to say abstract rules of virtue and right, for the actuality of freedom.

Although a Kantian doctrine of duties on its own does not suffice to determine what we have to do, the meaning of a doctrine of duties for the actuality of freedom, as shown by Kant, consists in regulating the inner and outer human capacity of choice. Hence, it is effective in *Sittlichkeit* as a “formal” set of regulations. *Sittlichkeit* is the realm of the existence of concrete freedom, the space of actual normativity. The actual normative space is, on the one hand, a product of free spirit, whereas, on the other hand, free spirit acts all along in an actual normative space. *Sittlichkeit* is, as Hegel says, the “living good” (*Rph* §142). Hence, the good is no longer a mere abstract demand but it is conceived of as the normative order of an actual community. Objectivity (universality, abstract right) and subjectivity (particularity, morality) are captured in their concrete unity (singularity, *Sittlichkeit*). From the perspective of objectivity, *Sittlichkeit* concerns a whole of valid norms, values, laws, and institutions of

a community. It takes over the place of the abstract good (*Rph* §144). At the same time, however, *Sittlichkeit* in its objectivity is mediated by subjectivity and therefore “concrete substance” (*Rph* §144), “consciously free substance,” in which the absolute “ought” is solidified into “being,” and so has “actuality” (*Enc.* §514). The “powers” (*Rph* §145) of the realm of *Sittlichkeit* are not alien to the subject but in it and because of it (cf. *Rph* §147). Hence, the universality of the substance has finally become a concrete universality. The realm of *Sittlichkeit* as a concrete substance thus has a “fixed content,” which is likewise “necessary” for itself and exalts mere subjective opinions and preferences (*Rph* §144). It is nothing but the system of these determinations of the content in their rationality (*Rph* §145). The subject, in turn, has only actuality within the normative order of *Sittlichkeit*. The “actuality” and “activity” of the “individual” is both conditioned by the “presupposed whole” as well as a “transition into a universal product” (*Enc.* §515). In the realm of *Sittlichkeit* subjective freedom obtains its objectivity actually. The objective becomes part of the subject. The content is not merely pre-given but its own content. Apparently, in the realm of *Sittlichkeit* subjectivity and objectivity correspond. Freedom is actual and hence the world a world of freedom.

The relevance of a metaphysical doctrine of duties, then, lies in its function to make the subject aware of the formal moments of its duties. With this conclusion, we can grasp a decisive aspect for locating a metaphysics of morals in the system of speculative philosophy: the function of making normative content aware is a concern of *Bildung*. Within Hegel’s system of philosophy, the project of a metaphysics of morals should be exposed in the context of his elaborations on *Bildung*.

Without doubt, *Bildung* is a constant issue in Hegel’s philosophy of right, albeit with different accentuations. Regarding *Sittlichkeit*, the family is apparently not the place of exposition. In the family, an institution of education and cultivation too, children are made familiar with *Sittlichkeit* on the level of *feeling* (*Rph* §175). As free personalities they grow out of the family into civil society, where they function as judicial and economically independent persons. Here, they encounter other persons who all understand themselves as a “particular purpose” (*Rph* § 182, cf. *Enc.* §523). They all embrace the right of subjective freedom, to satisfy as moral subjects their well-being at their own discretion. This standpoint of morality, however, is relativized by the other principle of civil society: the “form of universality” (*Rph* §182). Persons essentially relate to other persons on which they are dependent in order to satisfy their well-being. As a consequence, they also are dependent on a “mediating relation of independent extremes” (*Enc.* § 523). More specifically, the “self-seeking end in its actualization” (*Rph* §183) concerns a “system of atomism,”

(*Enc.* §523) a system of “all-around dependence,” (*Rph* §183) a *Sittlichkeit* “lost in its extremes” (*Rph* §184).

The subsequent development of spirit, then, raises the subjective self-interest into the universal, that is to say, into a contribution to the satisfaction of the needs of all others. In civil society, the individuals have their own interest as their purpose. They, however, can only achieve their purpose in so far as they themselves determine their “knowledge, volition, and action in a universal way and make themselves *links* in the chain of this *continuum*.” (*Rph* §187). In doing so, subjectivity is “educated” in its particularity and hence “raised” to (formal) freedom and universality (*Rph* §187). According to Hegel, it is especially the realm of “work” in which processes of theoretical and practical *Bildung* (education of the understanding and applicable skills) take place. As a result, a, in the first instance, formal, abstract-universal form of universality occurs (*Rph* §§196 ff.).

Yet Hegel not only integrates the moral standpoint into civil society. Abstract or formal right also belongs to it (cf. *Enc* §529; *Rph* §209). Abstract (formal) right turns into a whole of institutions of the administration of justice (*Rechtspflege*). Thus Hegel brings to bear the “ethical” (*sittlich*) character of abstract right.

With Hegel’s integration of morality and abstract right in the *Sittlichkeit* of civil society through *Bildung*, we have reached nothing less than the place to expose the theme of a metaphysics of morals in Hegel’s system of philosophy. *Sittlichkeit* is not something that is “alien” to the subject but the “witness ... of its own essence” (*Rph* §147 f.). Although the relationship of the subject to *Sittlichkeit* initially is one of faith and trust, this mode of belief already belongs to a “beginning reflection” and transforms into “insight grounded on reasons,” finally in adequate cognition through the “thinking concept” (*Rph* §147R). Reflection on *Sittlichkeit*, ultimately philosophical reflection, is a part of *Sittlichkeit*, not least of a modern, truly free *Sittlichkeit*. It in fact not only plays a role in processes of theoretical and practical education through work. In the context of Hegel’s elaborations on the administration of justice as a sphere of *Bildung* it becomes clear that in the realm of particularity, the relationships are determined in a free and conscious way from the perspective of the universal. Right here is “*universally recognized, known, and willed*” (*Rph* §209). Right in civil society is doubtlessly related to thought (*Rph* §209 f.). Here, the human being is conceived of as a universal person with the result that with the generation of a consciousness of what right is, the focus on its subjective self-interest or particularity is exceeded toward universality. Positing something as universal is thought (cf. *Rph* §211R). Determinations of right are subjected to examination and appropriation by thought.

In the context of civil society, time and again the issue of a, so to speak, validity-reflective process of *Bildung* occurs. This process reaches from *Bildung* of understanding (*Verstand*) to the universality of reason (*Vernunft*) (cf. *Rph* §187). Hegel emphasizes in the “system of needs” (*Rph* §§189 ff.) that theoretical and practical processes of *Bildung* accomplish a route into the universal, and more specifically he emphasizes at the beginning of the “administration of justice” the aspect of thought. Therefore, the transition from the system of needs to the administration of justice is shown to be the proper point of connection for addressing the issue of a metaphysics of right as part of a metaphysics of morals. Moreover, according to Hegel, “morality” too has its “proper place” here, which is at the end of the system of needs (*Rph* §207): In Hegel’s doctrine of the estates (*Stände*), morality obtains the function to complement demands of rectitude so that also here a deficit of reflection needs to be coped with. Coping with this deficit thematically leads to a metaphysics of virtue as part of a metaphysics of morals. In morality, the “reflection of the individual on its actions” is virtually dominant (*Rph* §207).

In his seminal interpretation of Hegel’s philosophy of right, Klaus Vieweg (2012) recognizes quite clearly the encompassing character of Hegel’s doctrine of duties. Nevertheless, differing from Vieweg, it seems to me that with Hegel’s conception of duty the “establishment of a canon of duties” does not become “superfluous,” (Vieweg 2012, 246) at least if we take the whole into account. Certainly Vieweg is right in the view that Kant’s philosophy of morals does not dig deeply enough to comprehend the existence of freedom and therefore must be overcome by a speculative conception of *Sittlichkeit*. Nonetheless, with this transformation of a practical philosophy in the sense of Kant the problem of a “metaphysics of morals” is not settled completely. In fact, the question arises of how a project of a metaphysics of ethical and judicial normativity is possible within a speculative philosophy of spirit. This question, hence, concerns a supplementary issue. Hegel rejects Kant’s position only as far as it claims to be an encompassing perspective on freedom.¹⁰

If the issue of integrating a Kantian metaphysics of morals is dealt with positively, then the criticism of the Hegel scholar Paul Cobben (2010, 69 ff.) can be encountered too. Of course, Cobben does not fall victim to the widespread foolishness of interpreting Hegel as a thinker who just conservatively affirms the societal situation of his age. He offers the criticism that in his conception

10 Although I agree with Hofmann (2017) on many points, he does not address the question about the possibility of integrating Kant’s metaphysics of morals into Hegel’s speculative philosophy of objective spirit itself. Hence, the issue of a “practical advancement” is still pending here.

of *Bildung*, Hegel has insufficiently taken into account the universal impetus of freedom, characteristic for his philosophy: Hegel failed to acknowledge that *Bildung* is not only about becoming familiar with an existing normativity but at the same concerns the development of a consciousness of the historical situatedness of this existing normativity or tradition. According to Cobben, this omission leads Hegel to a one-sided conception of *Bildung* in the family and civil society. Cobben holds accordingly that in Hegel's philosophy of a free *Sittlichkeit* two essential processes of *Bildung* are missing: on the one hand a reflection that imparts children with an insight into the particularity of the values and norms guiding their respective families, and on the other hand a reflection that enables persons to choose the specific values and norms they wish to orient their lives towards. To deal with this omission, Cobben introduces a number of severe modifications of Hegel's doctrine. The deficit that Cobben criticizes, however, can be reformulated methodically on a higher level of universality as, in the first instance, the problem of integrating a speculative practical philosophy, that is, addressing the practical from the perspective of the practical or the "practical idea," into Hegel's philosophy of *Sittlichkeit*.

It has turned out to be a fortunate coincidence that Hegel himself offers a context within his doctrine of *Sittlichkeit* that makes it possible to thematize the problems of right and virtue together instead of allocating their relevant contents fragmentarily across Hegel's doctrine of *Sittlichkeit*. In this way the conceptual articulation of the matter at issue can construct speculative relationships and, hence, develop a uniform reflection. It is rather evident that this reflection does not amount to a mere repetition Kant's metaphysics of morals. On the contrary, Kant's metaphysics of morals needs to be translated into the concept in such a way that its practical, duty-theoretical profile comes into its own and the relationship between the formal determination of duty and concrete *Sittlichkeit* into effect—a project that is still outstanding in contemporary philosophical research. Its elaboration will surely raise many new questions.

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The Normative Function of the Right of Objectivity in Hegel's Theory of Imputation

Giulia Battistoni

1 Introductory Remarks: from Kant's Deontological Theory of Action to Hegel's Right of Objectivity¹

As is well known, Kant's moral philosophy stresses the autonomy of the individual, namely her capability of self-determination according to the faculty of reason, which lays the groundwork for the moral law, i.e. the categorical imperative for human beings: therefore, it is the principle of the action that plays the crucial role in this kind of morality, which is nowadays identified as "deontological." On the one hand, Hegel praises this point of view and gives Kant credit for having identified the unconditional capability of the will to self-determination, the practical notion of freedom, as a basis of duty and morality (cf. Menegoni 1993, 83); on the other hand, he shows in the Morality chapter of his *Elements of the Philosophy of Right (PR)* that a mere deontological perspective may not be sufficient to evaluate an action and to ascribe responsibility. This brings him to claim that:

However essential it may be to emphasize the pure and unconditional self-determination of the will as the root of duty—for knowledge [*Erkenntnis*] of the will first gained a firm foundation and point of departure in the philosophy of Kant, through the thought of its infinite autonomy (see § 133)—to cling on to a merely moral point of view without making the

¹ The idea of this article was developed through the fruitful discussions I had with Prof. Mark Alznauer and with Prof. Sally Sedgwick whom I thank. Moreover, I would like to thank Prof. Sally Sedgwick and Nicolás García Mills for organizing the Workshop "Hegel's Philosophy of Finite Spirit: Mediating Nature and Spirit" at the University of Illinois at Chicago in January 2018 and for inviting me as speaker: this gave me the opportunity to discuss important parts of this article. I would also like to thank Maria Mejia for the linguistic revision of this text. Finally, I am grateful to the Istituto Italiano per gli Studi Filosofici of Naples, by which I was awarded a research fellowship for the year 2019, for giving me the opportunity to continue my research in the field of Hegel's action theory.

transition to the concept of ethics reduces this gain to an *empty formalism*, and moral science to an empty rhetoric of *duty for duty's sake*.

PR, § 135 A²

Hegel thinks that one cannot derive particular and concrete duties from the determination of duty as *formal correspondence with itself* (*ibid.*), which makes it an abstract principle. For this reason, he argues that the consequences of actions must be considered too (see PR, § 118). Moreover, the social context must be taken into account in the evaluation of an action, which implies a mutual recognition among the members of a society, who share common social and normative standards. The Morality chapter represents, therefore, not only Hegel's acknowledgement of the value and the limits of Kant's morality, but it also develops Hegel's own theory of action, as it was already recognized by critics in the last decades:³ human action is characterized, in Hegel's view, by a dialectical contrast between subjectivity and objectivity, each of which have their own rights. The right of objectivity seems to be a correction: with its normative function it manages to balance the rights of the subjective will in the evaluation of an action.

Now, Hegel's understanding of the concept of imputation (*Zurechnung*) finds its place in his theory of action, which he develops through his *Philosophy of Right*. "Right," in Hegel's understanding of the term, refers to his practical philosophy and it is not limited to the field of pure law, which represents on the contrary only one section of his *Philosophy of Right*, namely Abstract Right. This section develops the concept of person and personality in a juridical sense with her rights and duties as owner of property that can be sold or changed through a contract, and damaged through illicit behaviour. The second section of Hegel's *Philosophy of Right*, i.e. the Morality chapter, develops the concept of "moral subject" with her subjective rights towards her acts. This is the section in which important parts of Hegel's theory of action are developed: i.e. the elements of intentional action (in German *Handlung*) like purpose and intention,

2 The abbreviation A refers to Hegel's own *Anmerkungen*, i.e. to his comments and remarks about the paragraphs of his *Elements of the Philosophy of Right*. The abbreviation Z refers, on the contrary, to the *Zusätze*, i.e. to Gans' additions. I quote Hegel's *Randbemerkungen* (his own margin notes) from the volume 14,2 of the *Gesammelte Werke* (GW).

3 See Stepelevich and Lamb (1983), Derbolav (1965), Menegoni (1993), and Quante (1993) as the first studies giving momentum to a new interest in Hegel's theory of action and the related concepts of responsibility and imputation. This question is anything but solved and it has still been discussed in recent books: Laitinen and Sandis (2010), Vieweg (2012), Caspers (2012), Alznauer (2015), Quante (2018).

followed by the rights of the subjective will, as well as the “right of objectivity” towards the individual herself. Finally, in Ethical Life the agent realizes herself as a free person, who is recognized in a social context, where her actions can be imputed to her on the basis of common social standards.

I think that the so called “right of objectivity,” developed in the Morality chapter, plays an essential role in Hegel’s theory of imputation and, in a certain sense, anticipates Ethical Life. Given the rights of the subjective will to accept responsibility only for what was its purpose, its intention (in Hegel’s understanding of the terms), according to the subject’s knowledge of the value of the action (*PR*, §§ 117, 120, 132), objectivity itself has its own rights according to Hegel. Up to now critics have acknowledged the presence of a theory of imputation in Hegel’s *Philosophy of Right*, because each element of the action, as it is developed in the Morality, actually corresponds to a form of imputation;⁴ they also have understood Morality as an exposition of the fundamental rights of the subjective will, underlining the importance of the intentional action. However, little attention has been devoted to the correction of those rights, a correction that is represented by the right of objectivity and that shows that Morality is not a one-sided section, isolated and not integrated in the whole project of Hegel’s *Philosophy of Right*.

The aim of the paper is to highlight the normative function of the right of objectivity in Hegel’s theory of imputation. To fulfill this aim, I will firstly show to what extent Kant’s formalism is according to Hegel problematic when it comes to evaluating an action, which brings us to understanding the significant role of the right of objectivity in Hegel’s theory of imputation; I will secondly consider the concept of “objectivity” and its different meanings in Hegel’s *Philosophy of Right* and I will lastly analyze the right of objectivity in order to show its normative function as “correction” in Hegel’s theory of imputation.

2 “Verabsolutierung” of the Moral Subjectivity: Hegel Against the Kantian Formalism

In the context of Morality the good is defined by Hegel as “subjective” and “formal” (GW 14,2: 637), as “objektiv seyn sollende,” that realizes itself only in the Ethical Life. The “Sollen” characterizes the moral standpoint, indeed, and plays an important role in the question of imputation too: “It [the subjective will] thus stands in a *relationship* to the good, a relationship whereby the good

4 See Schild (1981) and Seelmann (1989) as well as the the systematic studies of Caspers (2012), Vieweg (2012), and Quante (2018).

ought to be its substantial character, whereby it ought to make the good its end and fulfil it ..." (PR, § 131).

As a consequence, the limit of the moral standpoint is that it still lacks the true content of the good. This one remains abstract and can therefore be determined by the moral subject through her particularity (see GW 14,2: 637) in a way that is accidental: the moral subject can recognize as "good" both the true good and a mere opinion, thus committing a mistake. If there were not objective and normative demands, if the objectivity could not reclaim its own value towards the individual, the moral subjectivity could declare itself absolute, as Hegel explains in PR, § 140, which deals with the shapes of the subjectivity making itself absolute. These passages show that if the value of an action only depends on the intention and the conviction of the agent, if the intention is the only thing that can be imputed to the agent as her responsibility, then every criminal act might turn into a good one, because everybody might provide as reason for her action an assumed good intention. Therefore, it happens that "this subjectivity, as abstract self-determination and pure certainty of itself alone, *evaporates* into itself all *determinate* aspects of right, duty and existence [*Dasein*] ..." (PR, § 138).

This happens because the moral subjectivity represents the possibility to comply with the universal *in and for itself* as well as the possibility to put its particularity above the universal and, in so doing, to become the principle for judging agency (see PR, § 139). However, the will is responsible for choosing evil too (PR, § 139 A).

In the first shapes of the moral subjectivity, which declares itself absolute, a trace of objectivity is preserved (as in probabilism). But we are witnesses to the total loss of objectivity when every content and criterion of right and duty is entrusted to the moral subjectivity, namely to subjective opinion, "*the conviction which holds something to be right*" (PR, § 140 A). This makes Hegel claim that "under these circumstances, any semblance of ethical objectivity has completely disappeared" (*ibid.*). The subjectivity turns out to be what determines what is valid as "objective." In this way thefts and murders might even be considered good actions as means to satisfy the subjective will, justified by a seemingly good intention which the individual claims as the essential aspect of her action.⁵ The last shape of the subjectivity, i.e. irony, paradoxically

5 I will not analyze in detail all the shapes of moral subjectivity that declares itself absolute, because it has already been done in a noteworthy way (cf. Chiereghin 1980; Menegoni 1982, 264–268; Vieweg 2012, 210 et seq.; Caspers 2012, 158–166) and is not the primary aim of this paper. What is interesting here is that these shapes represent the risk that the moral subjectivity with its rights might run, in order to show the necessity of a correction. In fact, the "making itself absolute" of the moral subjectivity leads to the conversion of good into bad (cf. Menegoni 2004).

contains the seed of its own sublation: subjectivity knows itself as the one who can determine what has value and what has not, and this makes it fall into the vanity of everything and of itself: “A longing may therefore arise for an objective condition ...” (PR, § 141 Z).

Hegel is not criticizing the role of the conscience or the moral standpoint in itself: on the contrary, he thinks they are an important achievement and progress of the modernity. What he rejects is taking the formal conscience as basis for evaluating an action, as if the moral standpoint could be self-sufficient: for this reason he shows the negative consequences that develop if moral subjectivity becomes the only judge over human action.⁶ This leads not only to the transition to Ethical Life, but this also demonstrates the necessity of a correction, which is in my opinion already introduced in the Morality chapter and is given by the right of objectivity and its normative claim towards the agent.

3 Objectivity as First and Second Nature

In order to understand the role of the right of objectivity in Hegel's theory of imputation an analysis of the notion of “objectivity” in the context of Hegel's *Philosophy of Right* is now due. I will focus, in particular, on the meaning of objectivity understood as first nature and as second nature, because I think that the right of objectivity, as it is introduced and discussed in the Morality chapter, is connected with these two meanings of objectivity, which play a significant role in the judgement of imputation.

3.1 *Objectivity as First Nature: the Immediate Externality Opposite to the Free Will*

One of the meanings of the concept of objectivity in the context of the *Philosophy of Right* is its one-sided determination referred to the external world, which is opposed to the will: it is the “immediacy of existence [*Dasein*] as external existence [*Existenz*]” (PR, § 26). The free will, which represents the point of departure and the ground of Hegel's *Philosophy of Right*, finds a pre-existing external and natural world, indeed, which seems opposed to it and in which it tries to realize its ends. The objectivity of the external and outer world stands in front of the agent with her inner moral intentions and free will in action and can modify her action, as I will show. Therefore, it seems to me that first nature still plays a role in Hegel's Philosophy of Objective Spirit. In the *Encyclopedia*

⁶ The target of Hegel's criticism of the formal conscience is the Kantian-Fichtean conception of morality (cf. Menegoni 1993, 82).

of the *Philosophical Sciences* (*Enc* 1830), Nature is described as the “Idea in the form of *otherness*” (*Enc* 1830, § 247) and its major determination is that of *externality*.

Now, Hegel’s *Elements of the Philosophy of Right* show the explication and actualization in the world of the idea of the free will, which is the result of the process of the subjective spirit: this leads to the realm of the objective spirit.⁷ In this context, too, nature represents externality, but in relation to the Idea of the free will: the free will realizes itself in the external world, which must be presupposed. As Quante puts it: “objectivity denotes the »immediacy of existence [*die Unmittelbarkeit des Daseins*]«, that is, one’s external existence in space and time as a natural being. The world in which I need to realize my will as well as my natural aspects as a human being are the complementary material aspects of the will that complete the conceptual nature which ... is the will’s essence”⁸

The practical behaviour of the human being towards nature is described by Hegel as follows: “In the *practical* relationship which man establishes between himself and nature, he treats it as something immediate and external; he is himself an immediately external, and therefore sensuous individual, who is nevertheless also justified in acting as *purpose* in the face of natural situations” (*Enc* 1830, § 245).

This could be translated into the context of Hegel’s theory of action as follows: the human being, i.e. the agent, and the natural world seem to be external and alien to one another. Although the sensible part is constitutive of the individual, the human being regards himself as a purpose over against the things of nature. In the same way, in *Abstract Right*, a person, as the bearer of a free will, can possess a thing (*Sache*), which is characterized by the fact that it does not have a free will. In fact, freedom is what characterizes *Geist*, while “nature in its determinate being displays *necessity* and *contingency*, not freedom” (*Enc* 1830, § 248). Only man can rise to the universality of thought and is conscious of himself. For this reason, the same action committed by an animal and committed by a human being is subject to different moral and juridical

7 In my view, the English translation of the German concept of “*Geist*” with “mind” threatens to reduce it to something subjective. Hegel’s talk about “*Geist*” is not reduced to what nowadays is generally intended with the term “mind,” which is normally used in the field of the philosophy of embodiment with regard to an ancient problem: the mind-body problem. Translating it with “spirit” does not help very much but I decided to choose this translation.

8 Quante 2018, 231. Note that for the aim of the paper I focus here on this meaning of “objective,” which is only one of the meanings that Hegel analyzes in *PR*, § 26. For a deepened analysis of the different meanings of “subjective” and “objective,” see Quante (2018, 229–232).

evaluations: this has obvious consequences when it comes to the question of responsibility and imputation.

As I already mentioned, at first the subjective will and the external world seem to be in contrast with each other. But the will becomes “objective” when it externalizes its subjective ends. In this way, subjectivity and objectivity pass over to their opposite and reveal their dialectical nature: “The activity of the will consists in cancelling [*aufzuheben*] the contradiction between subjectivity and objectivity and in translating its ends from their subjective determination into an objective one, while at the same time remaining *with itself* in this objectivity” (*PR*, § 28). Objectivity and subjectivity⁹ are two concepts that are repeatedly in contrast with each other in Hegel’s theory of action. However, the actualization of the free will in the external world is meant to overcome this opposition: action leads to a first solution to the contrast, indeed, because what is wanted and realized by the agent is at the same time not only subjective and interior but also objective, in so far as it is transposed in the external world.¹⁰

In Hegel’s *Philosophy of Right*, first nature still preserves its role as immediate external world, as the immediate “otherness” of the free will, thus playing a significant role in Hegel’s theory of imputation, as I will show. In making this claim, I do not want to negate the meaning of the “objectivity” as *second nature*: this second meaning will in turn allow me to claim the normative function of the right of objectivity in Hegel’s theory of imputation.

3.2 *Objectivity as Second Nature*

“Objective spirit” realizes itself as “right.” As I already said, with the word “right” Hegel does not refer to the common legal meaning of the term: “right” rather covers three spheres, i.e. Abstract Right, Morality and Ethical Life: “the system of right is the realm of actualized freedom, the world of spirit produced from within itself as a second nature” (*PR*, § 4). Therefore, “right,” as Hegel understands it, covers every manifestation of the objective spirit at the level of juridical, moral and ethical agency, in which the concept of the free will is realized. But what does *second nature* mean? *Second nature* refers to all elements of the social world, as the actualization of the free will itself. It seems that this

9 Subjectivity refers on the one hand to the pure form of self-consciousness (*PR*, § 25). But it also refers to the particularity of the will as arbitrariness, connected with contingent contents. Subjectivity is one-sided and unaccomplished, when it abstracts from the objective side: its content remains unrealized.

10 Menegoni writes: “The activity of the will consists in eliminating the separation between subjectivity and objectivity and is aimed at this end; but in order to achieve this aim it [the will] must go beyond the formalism of consciousness, for which objectivity is always given externally and is immediately opposed to it.” (Menegoni 1982, 248, my translation)

expression still preserves some elements of “nature”: in fact, the elements of the social world are “at once natural determinations which follow from the essence of the will and yet can also take the form of natural conditions which are not brought about by the explicit decisions of individuals,” as Quante puts it (Quante 2018, 20). Note that the concept of the free will, as the basis of Hegel’s *Philosophy of Right*, is not limited to an individual and subjectivistic perspective of the will. In Hegel’s *Elements of the Philosophy of Right* we can clearly recognize what Testa calls the *external second nature*, understood as “an ensemble of the forms of objectified interactions together with the institutions of the social space in which individuals find themselves operating, presenting an immediacy analogous to that of the first-nature environment” (Testa 2009, 349).¹¹ Second nature is there predicated of Ethical Life “in so far as ethical life to be such has to objectify itself in social habits of recognitive interaction stabilized through habit and internalized by individuals” (Testa 2009, 354). This brings to the important function of *habit* in Ethical Life:

the ethical [*das Sittliche*] ... appears as *custom* [*Sitte*]; and the *habit* of the ethical appears as a *second nature* which takes the place of the original and purely natural will and is the all pervading soul, significance, and actuality of individual existence [*Dasein*]. It is *spirit* living and present as a world, and only thus does the substance of spirit begin to exist as spirit.

PR, § 151

Habituation is not only a process of liberation from our immediate inclinations, but it also lets us acquire ethical disposition, thus overcoming the formalism of the moral reflection. As Andreja Novakovic puts it: “in an objectively rational social order the basic tension between social expectations and particular commitment is (for the most part) overcome, since I form my commitments within the context of institutional roles” (Novakovic 2017, 42). Habit develops ethical disposition by internalizing and incorporating ethical commitments. This does not mean that we are unfree: habitualization is, on the contrary, a process that requires thinking and attention, although it is true that once we have developed a specific habit we do not need to “think” about the rules, the duties we have to follow in order to realize an action, exactly because we have internalized them (see *ibid.*, 52): “So becoming virtuous must for Hegel involve a transformative process in which I go from merely *receiving* the laws of the social world to *grasping* them internally.” (*Ibid.*, 53). In this way

¹¹ Testa identifies, on the contrary, a sort of “internal second nature” in Hegel’s discussion of habit in the *Encyclopedia*. He claims, moreover, that Hegel manages to bring the two spheres (internal and external) of second nature together. See Testa (2009).

“we internalize what is initially outer to us” in a “process of appropriation, of giving myself determinations that I can consequently regard as posited by my will ...” (*ibid.*, 54).¹²

Starting from these two meanings of objectivity, I will now show that the right of objectivity, which I understand as a “correction” in the judgement of imputation, refers at a first level to the objectivity understood as *first nature*, while in its highest expression it refers to the social normative standards, to an objectivity which is rather understood as *second nature*.

4 The Right of Objectivity

After presenting the meanings of the concept of objectivity as first and second nature, it is now possible to analyze what Hegel calls the “right of objectivity.” I will try to demonstrate that the right of objectivity develops on two levels, that correspond to the two meanings of objectivity I showed: 1. one naturalistic-descriptive level, which is connected with the objectivity and externality understood as *first nature*, as external natural world; 2. a social and normative level, linked to the concept of objectivity as social world, as *second nature*. Moreover, I will show that the right of objectivity can be understood as correction against the rights of the subjective will.

The opposing concepts subjectivity-objectivity will be considered at first in their defective and one-sided meanings: subjectivity as the particularity of the moral will; objectivity as externality, which the will finds in front of itself. Each of them has its own rights that are opposite to one another (the rights of the subjective will towards the right of objectivity).¹³ I will show that, however, they do not negate each other, but they preserve themselves and contribute to define the judgement of imputation, thus balancing both the demands of the moral subject and those of the objectivity.

On the one hand, the rights of the subjective will tend to limit responsibility and imputation of the agent to consciously intended actions; on the other hand, the right of objectivity serves as correction and allow imputation of unintentional actions. To support this thesis, I will show in the following parts of the paper that the three sections in which Morality is divided (1. Purpose and Responsibility; 2. Intention and Welfare; 3. The Good and the Conscience) not

12 For a deepened analysis of the concept of “second nature” in Hegel see the recent systematic studies on this topic of Ranchio (2016) and Novakovic (2017). See also the essay of Magri (2018).

13 It is interesting that Hegel here opposes rights against rights and not rights against duties.

only entail the exposition of Hegel's theory of action, but they also stage the dialectical tension between the rights of the subjective will and those of objectivity in the determination of the judgement of imputation and, therefore, of the guilt of the individual.

4.1 *A Right of Objectivity at the Level of Purpose?*

As I already mentioned, the individual is faced with the external world. She can have a representation of the external circumstances, but something else can happen that the individual did not represent to herself:

It is, however, the right of the will to recognize as its *action* [*Handlung*], and to accept *responsibility* [*Schuld*] for, only those aspects of its *deed* [*That*] which it knew to be presupposed within its end, and which were present in its *purpose* [*Vorsatze*].—I can be made *accountable* for a deed only if *my will was responsible* for it—the *right of knowledge*.

PR, § 117¹⁴

Therefore, the right of the will and the right of knowledge serve to limit moral responsibility and imputation to the intentional action (*Handlung*). This one is identified, at a first level, by the purpose (*Vorsatz*), that corresponds to the representation an individual has of the external, immediate existence (see GW 14,2: 575). The individual can acknowledge only the part of the realized deed (*Tat*) that corresponds to his purpose: on the contrary, if an event is not recognized by the individual as her own realized purpose, it means that the deed cannot be considered as action of the individual at all and it would bring to a categorical exemption, as Michael Quante puts it (Quante 2018, 159).

As the above quotation shows, at the level of purpose the subjective right of the will and the right of knowledge emerge clearly. What about the right of objectivity? At this level Hegel does not make it explicit. However, it seems that Quante identifies it in the possibility of contingency to attach to the action (cf. Quante 2018, 165): "Action in terms of individuality [*Einzelheit*] has a *nature as such*—external, immediate universality—possibility that lies therein—precisely the possibility that contingencies are connected with it" (GW 14,2: 603). However, identifying these fragments with a supposed right of objectivity at the level of the purpose is misleading, in my view, for two reasons: 1. from a philological point of view these notes refer to *PR* § 120, which deals with the universal "nature" of the action, i.e. with the intention, that differs from the purpose, as I will show; 2. it does not seem to me that with this claim Hegel

14 The German words in brackets have been added by me.

wants to support the thesis that “Zufälligkeiten” in general have a right against the agent. On the contrary, the right of the will claims its full value towards the “remote and alien consequences,” which cannot be imputed to the agent.¹⁵ On the other hand, it is true, Hegel admits: “The development in the realm of existence of the contradiction which is contained in the *necessity of the finite* is simply the transformation of necessity into contingency and vice versa. From this point of view, to act therefore means *to submit oneself to this law*” (PR, § 118 A). So in this sense, one might actually claim that contingency has a right towards the agent. But Hegel still argues that the will has the right to accept responsibility only for those consequences which are an integral part of the action, thus excluding the “remote and alien consequences” from the action itself and its imputation. I take the “remote and alien consequences” to be the ones which do not depend on the agent’s will and which only depend on the “external forces” like the natural ones: in this sense, I think that contingency does not have a right towards the agent in Hegel’s view.

In fact, the right of objectivity is the “counterparty” of the rights of the subjective will in the definition of the judgement of imputation, thus defining what can be imputed to the agent in the objectivity: but in no case can the coincidental consequences, in the sense I mentioned above, represent a right of objectivity, because they are alien to the substance and nature of the action itself and are excluded from the realm of both moral and legal imputation. I think, therefore, that the first form of right of objectivity emerges at the level of intention, as I will show in the following section.

4.2 *The Right of Intention and the Right of Objectivity: a Naturalistic-Descriptive Perspective*

The consideration of the consequences of the action allows the transition to the intention.¹⁶ By reflecting on the immediate content of the action, i.e. the

15 Hegel recognizes that: “action has multiple *consequences* in so far as it is translated into external existence [*Dasein*]; for the latter, by virtue of its context in external necessity, develops in all directions. These consequences, as the [outward] *shape* whose *soul* is the *end* to which the action is directed, belong to the action as an integral part of it. But the action, as the end translated into the *external world*, is at the same time exposed to external forces which attach to it things quite different from what it is for itself, and impel it on into remote and alien consequences. The will thus has the right to *accept responsibility* only for the first set of consequences, since they alone were part of its *purpose*.” (PR, § 118)

16 Gans writes: “necessary consequences attach themselves to every action—even if what I initiate is purely individual and immediate—and they are to that extent the universal element contained within it. It is true that I cannot foresee those consequences which might be prevented, but I must be familiar with the universal nature of the individual deed. What is at issue here is not the individual aspect but the whole, which concerns not

purpose, which is the punctual aspect that the individual aims to realize, we understand that action stands in multiple connection with natural events and that inevitably many consequences are produced: the action has to be considered in its universality. This universality is exactly what is linked to the intention: this one refers to the capability of the agent to plan her action on large-scale, thus reducing the purpose to a means to achieve a broader aim. An individual realizes an action, according to Hegel, when she translates her internal end in the external existence, that “by virtue of its context in external necessity, develops in all directions” (*PR*, § 118) and produces multiple consequences: this seems to refer to the causal laws characterizing the external world, which the agent is always faced with. The objectivity that is opposed to the agent seems to preserve, at this level, the meaning of *first nature*: this externality, however, is then included in the action itself. It follows that “man muß wissen, was man thut,” one has to know what she is doing (GW 14,2: 583): not only the rights of the subjective will claim their value towards the action, but also objectivity itself claims its value towards the agent.

As a consequence, at the level of intention the explicit contrast between the rights of subjectivity and the right of objectivity emerges, because the individual can carry out the so called “Zersplitterung der Folgen,” she can analyze the consequences minutely, thus recognizing as her own only those consequences that she intended to produce. In fact, the agent has the right “that the *universal* quality of the action shall have being not only *in itself*, but shall be *known* by the agent and thus have been present all along in his subjective will ...” (*PR*, § 120). For an action to be imputed to an agent from the moral standpoint she must not only be able to recognize her purpose in acting, but she must also be able to recognize that the universality of the action corresponded to her own intention: that, for instance, she set fire to a branch of wood in order to commit arson.

But at the same time the action has the right “to assert itself as known and willed by the subject as a *thinking agent*” (*ibid.*): this is the right of objectivity. If an action is brought about by an adult and mentally sane person, the action itself claims to be known and wished for by her as a thinking being: the universality of the action, its nature, must be known by the agent. As I mentioned before, I think that the right of objectivity at the level of intention is understood by Hegel mostly in a naturalistic-descriptive way and not yet as a normative and social demand. My interpretation differs therefore from that of Mark

the determinate character of the particular action but its universal nature. The transition from purpose to intention consists, then, in the fact that I ought to be aware not only of my individual action, but also of the universal which is associated with it.” (*PR*, § 118 Z).

Alznauer who thinks that action, as it is analyzed by Hegel in the *Elements of the Philosophy of Right*, is intrinsically social and always judged in a social and legal sphere. The social standards play a significant role in my view, but at a next level. As we can read in § 119 A: “To judge an action as an external deed without first determining whether it is right or wrong is to apply a *universal* predicate to it, classifying it as arson, murder, or the like.”

This passage represents a focal point in Hegel’s argumentation, in my view. However, the English translation of the sentence can be deceiving and this can lead to a partial interpretation of the passage. For this reason, I think that it is helpful to look at the original text in German: “Das Urtheil über eine Handlung als äußerliche That noch ohne die Bestimmung ihrer rechtlichen oder unrechtlichen Seite, ertheilt derselben ein *allgemeines* Prädicat, daß sie Brandstiftung, Tödtung u.s.f. ist.”

The notion of *Tat* refers to the description of an event produced by an agent, but from an external-descriptive perspective (*äußerlich*), without taking the agent’s intentions into account; the concept of *Handlung*, on the contrary, refers to the intentional action, evaluated from the moral point of view, taking the intentions of the agent into account. In the above passage Hegel claims that when an action is evaluated as *external deed*, i.e. from an external-descriptive perspective, it receives a universal predicate, namely that it is arson, murder and so on: it seems to me that this universal predicate is independent from the juridical or non-juridical feature of the action, or at least it seems to precede the consideration of its juridical feature. *Rechtlich* and *unrechtlich*, besides indicating what is right and what is wrong, explicitly refer to the legal sphere of law (*Recht*). Alznauer rightly recognizes that the question of whether the deed counts as arson, for example, is a question about the objectivity of the deed, but then he assimilates this to the question of whether the action is right or wrong in the legal sense, in the framework of Abstract Right, supporting the thesis that there is no way to determine whether an act counts as arson, etc., except from the point of view of a given social world (*second nature*).¹⁷ The universal predicates of “arson” and “murder” acquire a particular legal value, for sure, but it seems to me that it is possible in Hegel’s view to ascribe an event to an agent with these predicates before any legal judgement, without determining the juridical or non-juridical value of the action (“noch ohne die Bestimmung ihrer rechtlichen oder unrechtlichen Seite”). Oedipus killed his father, although he did not intend to do this: but the fact remains that, from a merely naturalistic-descriptive point of view, he killed a man. The fact that “murder” has also got a specific legal value in a social context, implicating punishment, is undeniable

¹⁷ See Alznauer (2015, 136 et seq.).

but its legal value adds up something to the naturalistic-descriptive perspective, so to say.

In this respect it seems that it is possible to ascribe the murder of his father to Oedipus from an external and descriptive point of view, even if the heroic self-consciousness lives in a pre-statal context. The following passage seems to support the interpretation that the right of objectivity does not refer to the social dimension, at a first level, but it rather implies a naturalistic-descriptive meaning of objectivity:

Actuality is touched in the first instance only at one individual point (just as in arson, the flame is applied directly only to a small portion of the wood ...), but the universal nature of this point implies its expansion. In living organisms, the individual [component] exists immediately not as a part, but as an organ in which the universal as such has its present existence. Hence in murder, it is not a piece of flesh as an individual entity which is injured, but the life itself within it.

PR, § 119 A

This example clearly refers to the causal relations that occur between the objects of nature: if one sets fire to a branch of wood, fire can spread. The example of the living organism and the notion of life is even more evident. The organism consists of parts that are not isolated, but are in essential connection with each other, so that they support the life of the organism. In the same way, the action consists of many particularities that do not remain isolated but are connected. If one hurts one single part of an organism, she is hurting the whole, with the possibility of causing its death. The right of objectivity of the action allows therefore for the ascription to the agent of responsibility not only for the immediate consequences but also for the universal quality of the action. Fortunate or unfortunate circumstances may occur but the agent must cope with that, as Gans underlines:

It is certainly the case that a greater or lesser number of circumstances may intervene in the course of an action. In a case of arson, for example, the fire may not take hold, or conversely, it may spread further than the culprit intended. Nevertheless, no distinction should be made here between good and ill fortune, for in their actions, human beings are necessarily involved in externality. An old proverb rightly says, 'The stone belongs to the devil when it leaves the hand that threw it.' By acting, I expose myself to misfortune, which accordingly has a right over me and is an existence of my own volition.

PR, § 119 Z

This does not mean that the agent must be a prophet and foresee all the consequences of her action: but she has the faculty of rational thinking and for this reason the objectivity demands that the agent knows the nature of her action itself, i.e. that it has the possibility (*Möglichkeit*) to show itself in a way that the agent did not directly intend:

But right of intention towards the thinking human being, is to know the nature of the action, to know [*wissen*] that it is a possibility [*Möglichkeit*] of manslaughter [*Tödtung*]. Although this particular action—murder [*Mord*—in that moment was not present in a conscious [*bewußt*] way in the purpose—he knows as thinking being that this is present in this behaviour.

GW 14,2: 609, my translation

The “right of the intention towards the thinking being” seems to refer to the right of objectivity “towards the thinking being” at the level of intention: in the example of the living organism, the agent must know that by hurting a part, she might cause the death of the whole. Although committing murder was not the goal of the individual, who might have only wanted to hurt a single part of the body of another man, she must know that her behaviour contains this possibility in itself.

It seems to me that the right of objectivity is not understood as a right that negates the right of intention: it rather allows for a better determination of the content of the judgement of imputation. On the one hand, the contingent consequences cannot be imputed to the agent, either in a moral or in a legal sense, as I already mentioned: they are alien consequences of the action because they do not depend on the agent at all but on the so-called “external forces.” On the other hand, the so called “necessary consequences” can be imputed to the agent, because they belong to the *nature* of the action:¹⁸ the agent should have known them. The universal *nature* of the action matches its external existence too, the external connections which are inherent in the essence of the action. As a consequence, human beings cannot avoid being involved in externality, which has its own right over the agent.

This grounds the imputation of *dolus indirectus*, which is understood as an event which is imputable to an agent although she did not directly intend it, because it is considered as belonging to its universal nature: “Hence in murder, it is not a piece of flesh as an individual entity which is injured, but the life

¹⁸ Here nature means “essence,” “substance.”

itself within it" (*PR*, § 119 A). As a consequence, the right of objectivity allows for an imputation of consequences that were not intended by the agent and that however should have been known by her.

4.3 *The Right of Objectivity at the Level of Insight into the Good: a Normative and Social Perspective*

In the judgement of imputation the following element is in the end necessary: the agent must know the value of her action. By externalizing her intention in the actual world, the action is judged and evaluated by other people according to the standards which are in force in a society. At § 132 Hegel introduces the further right of the subjective will that:

whatever it is to recognize as valid should be *perceived* by it *as good*, and that it should be held responsible for an action—as its aim translated into external objectivity—as right or wrong, good or evil, legal or illegal, according to its cognizance [*Kenntnis*] of the value which that action has in this objectivity.

PR, § 132

For an action to be imputed to an individual, both at a moral level (as good or evil) and from a legal standpoint (as legal or illegal) the agent must be able to know the value of her action in the “objectivity” and for this reason it is necessary that the laws of the ethical community are made public. The individual has the right to have insight into the legal and ethical duties on the basis of her conviction, on the basis of reasons that she acknowledges as valid and on the basis of the nature of these duties and obligations. In history, the self-consciousness of the individual as a free being has developed: so, for example, it is clear that slavery contradicts the concept of human being as a free rational being and that we have the right not to recognize slavery as legitimate, although it is still practised nowadays.¹⁹

The limit of the moral standpoint, as I said, is that the true content of the good is here still missing and the moral subject can determine it in a way that remains accidental. For this reason, also at this level Hegel introduces

¹⁹ But think about ancient Rome: there, slavery was a legitimate institution and was permitted by the legal system. The human being is in herself a free being: however, the one who has consciousness of herself as a free being perceives the world differently, uses a different language and acts in a different way from the one who is not conscious of being a free individual (cf. Waldegge 2017).

a correction, represented by the right of objectivity: “whatever I may require in order to satisfy my conviction that an action is good, permissible, or impermissible—and hence that the agent is in this respect responsible for it—in no way detracts from the *right of objectivity*” (PR, § 132 A).

The right of objectivity introduced at this level differs from the right of objectivity at the level of intention and acquires a normative and social function:

This right of insight into the *good* is distinct from the right of insight with regard to *action* as such (see § 117). As far as the latter is concerned, the right of objectivity takes the following shape: since action is an alteration which must exist in an actual world and thus seeks recognition in it, it must in general conform to what is *recognized as valid* in that world. Whoever wills an action in the actual world has, *in so doing*, submitted himself to its laws and recognized the right of objectivity.—Similarly, in the *state*, as the *objectivity* of the concept of reason, *legal responsibility* [*die gerichtliche Zurechnung*] must not stop at what the individual considers to be in conformity with his reason or otherwise, or at his subjective insight into rightness or wrongness, good or evil, or at what he may require in order to satisfy his conviction. In this objective field, the right of insight applies to insight into *legality* or *illegality*, i.e. into what is *recognized* as right, and is confined to its primary meaning, namely *cognizance* [*Kenntnis*] in the sense of *familiarity* with what is legal and to that extent obligatory.

PR, § 132 An

Hegel claims that the right of objectivity, at a first level, regards the “action as such”: it refers to what is “in general” recognized as valid in the actual world, in the external objectivity in which the individual produces a modification. This might lead us to think, again, about the causal nexus that characterizes the events from a naturalistic-descriptive point of view and the fact that the will submits, in a certain sense, to these laws.

At the level of the insight into the good, the normative and social character of the objectivity, understood as *second nature*, is clear: Hegel mentions the *state* as highest expression of the Ethical, as the “*objectivity* of the concept of reason.” In this context, a merely moral imputation, an ascription of responsibility that merely depends on the value that the action has for the agent, is not sufficient. As a consequence, in Ethical Life legal imputation is not limited to what the agent thinks is right or wrong according to her reason. The right of objectivity implies that the agent has insight into what is legal or illegal in the social context, as existing law, and expresses in these ways a normative claim

towards the agent.²⁰ This does not mean, again, that the right of objectivity negates the rights of the subjective will: in Ethical Life both sides are respected.²¹

However, it seems to me that by discussing the rights of the subjective will Hegel also shows the limits of the moral standpoint: the “right of the subjective will, that it *knows*, it has known—it could know, that something is good or is not good—legal [gesetzlich] or not legal [rechtlich] and so on” (GW 14,2: 647, my translation). The imputation of an action does not merely depend either on what the subject “knows” at the moment of her action or on what she “has known” about the value of her action, but it depends on the *possible* knowledge of the agent, on what she could know.²²

And again: “right of duty, of the good, against the conscience you should have known this [*du hättest diss wissen sollen*]” (GW 14,2: 653, my translation). The “right of duty, of the good, against the conscience” is explicated by the claim “you should have known this.” Therefore, the agent must cope with two claims: “you could know” the value of your action, and “you should have known” it.

5 Concluding Remarks

The concept of objectivity is normally understood in Hegel’s practical philosophy as *second nature*: I think that this traditional interpretation is correct and supported by Hegel’s text. However, I tried to show that in Hegel’s account of imputation the objectivity as first external nature still plays a role, at least at a first level. The immediate “externality” in front of the will must be taken into account when it comes to the question of imputation. On the one hand, the external natural forces can produce contingent consequences, for which the agent cannot be held responsible. On the other hand, agents must know that their actions also belong to the external world: although *Handlung* means the intentional action which can be imputed to the agent, one must bear in

20 Caspers understands the right of objectivity at the level of the intention already as expressing a social claim. See Caspers (2012, 201 et seq). I hope to have shown that this is true at the level of the insight into the good, while at the level of the intention, objectivity and its right could be understood in a different way.

21 Amengual goes against the reading of Hegel made by Tugendhat, according to which the laws are the absolute authority, in front of which the conscience of the individual disappears. Subjectivity is preserved in Ethical Life. What is cancelled (*aufgehoben*) is the formality of subjectivity. See Amengual (2004).

22 “dieses Recht bezieht sich demnach auch auf das dem Handelnden *mögliche* Wissen ...” Caspers 2012, 212.

mind that imputation is not limited to what the individual wanted and directly wished for, but it also includes what belongs to the *nature* of the action, including its external and objective existence, and what the individual could and should have known as a possible consequence of her action. For these consequences she is held responsible. The right of objectivity should be understood, at a first level, as connected with a naturalistic description of action, as modification which occurs in the external natural world. At a second level, the right of objectivity acquires a significant normative function by referring to the social standards that are in force in a state.

As I showed, Hegel underlines the significant role of the moral standpoint and of the rights of the subjective will, but at the same time he shows their limits. Thus, Morality points to its highest expression in the Ethical Life. Finally, I do not think that the rights of the subjective will and the right of objectivity negate each other. They are not isolated and independent rights but they are rather in a dialectical tension, allowing for a mutual correction that is meant to maintain a balance in the evaluation and imputation of actions:

The subjective right of self-consciousness to *know* an action in its determination as either good or evil in and for itself must not be thought of as colliding with the absolute right of the *objectivity* of this determination in such a way that the two are represented as *separable*, and *indifferent* and *contingent* towards one another

PR, § 140 A

As Quante puts it, Hegel shows that our practice of attributing responsibility appears as a weave of different demands—which I take to be the rights of the subjective will on the one side and the rights of objectivity on the other side—but it cannot be reduced to oppositional couples that cannot be reconciled.²³ They are rather complementary couples and rights. If no objective and normative demands were in force, if objectivity could not claim its value towards the agent, then the moral subjectivity could make itself absolute, as I showed at the beginning of the paper. Thus the circle is complete.

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The German words and Hegel's *Randbemerkungen* are quoted from the *Gesammelte Werke* (GW): G.W.F. Hegel, *Naturrecht und Staatswissenschaft im Grundrisse*.

²³ See Quante (2018, 158).

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Freedom from Kant to Hegel

Christian Schmidt

In the 9th chapter of *The Order of Things* Michel Foucault begins the passage on “The empirical and the transcendental” with a seemingly dark remark: “Man, in the analytic of finitude, is a strange empirico-transcendental doublet, since he is a being such that knowledge will be attained in him of what renders all knowledge possible.” (Foucault 1994, 318) The relation of knowledge and what renders all knowledge possible is a clear indication that Foucault’s remark aims at the Kantian analytic of pure reason and hence at the structural decision that established German Idealism as an intellectual movement.

In the introduction to the famous collaborative volume *Reading Capital* Louis Althusser criticises—in an argument which is at first sight as counterintuitive as Foucault’s remark is dark—German Idealism and Hegel in particular as a kind of “empiricism.” (cf. Althusser 1997, 35–38) He bases his surprising critique on an intuition which is very close to Foucault’s idea of the empirico-transcendental doublet. Even though, neither Foucault nor Althusser are particularly known for their interpretations of German Idealism, the understanding of the specific intuition concerning the relation of the empirical and the transcendental provides a deep insight not in the epistemic theory of German Idealism alone but also in the intricate concepts of freedom in Kant and Hegel upon which I will focus in what follows.

1 What Exactly is an “Empirico-Transcendental Doublet?”

In the introductory chapter of *Reading Capital*, Louis Althusser remarks that Hegel divides by his analysis the real object in two parts—the essential one and an inessential one. Both parts are real. Althusser calls the method, by which the essential element is extracted from its inessential and merely accidental hull that entirely covers or envelops it, “abstraction.” In order to clarify what he means, Althusser uses the image of a grain of pure gold contained in the dross of earth:

the essence is abstracted from real objects in the sense of an *extraction*, as one might say that gold is *extracted* (or abstracted, i.e., separated) from

the dross of earth and sand in which it is held and contained. Just as gold, before its abstraction, exists as gold unseparated from its dross in the dross itself, so the essence of the real exists as a real essence *in* the real which contains it.

ALTHUSSER 1997, 36

Althusser observes a double use of the term “real” in such a conception of cognition. “Real” in the first sense is the empirical object of research that comprises both components, the essential and the inessential. Yet, “real” in a second meaning is the essential kernel of the empirical object which also exists independent of the abstraction process that extracts it, unveils it or scrapes it out. The designation as empiricism stems from the second use of “real.” If the essential element exists in a hidden way in the empirical object, then it is regarded as a real object in the same way as empiricists regard the object of sense perception as given and “real.” The difference between standard empiricism and what we might call “transcendental empiricism” is solely that the latter needs abstraction, i.e. a special technique, in order to encounter the empirically given object.

Immediately, this description of Hegel’s position may seem to be misguided to every reader of Hegel’s *Science of Logic*. Since Hegel uses a similar characterization for the Kantian position there, which he explicitly wants to overcome. According to Hegel, the Kantian epistemology relies on “the empirical *material*, the manifold of intuition and representation ... this material is the reality in and for itself, a reality that cannot be extracted from the concept.” (WL, 517f.) In other words, the reality of the empirical manifold is not deducible from a concept or even from a system of concepts. It exists independent of the concept. And yet, “the understanding then *comes* into it, brings *unity* to it, and raises it through *abstraction* to the form of *universality*.” (WL, 518)

For Hegel this Kantian description of understanding’s activity means that understanding “*abstracts from*” the content that is given to it, i.e. from the given manifold of sense impressions, “that is to say, *discards it* as something useless, but useless only for the concept.” (ibid.) Though the empirical manifold of intuition and representation is not extracted from the concept, but the concept is an abstraction of the original manifold, two real entities coexist in the Kantian process of obtaining knowledge for Hegel (as in the Althusserian metaphor of the dross and the gold): the concept which is yet empty without the manifold of sense impressions and this very manifold which is nevertheless nothing to the subjective mind without understanding’s working on it.

In order to overcome the Kantian schism of sensuous manifold and conceptual reality, Hegel wants to demonstrate that the understanding is rather

a synthesis which transforms the sensuous manifold in reality. "Abstractive thought, therefore, is not to be regarded as the mere discarding of a sensuous material which does not suffer in the process any impairment of reality; it is rather the sublation and reduction of that material as mere *appearance* to the *essential*, which is manifested only *in the concept*." (WL, 519)

The mere discarding is implausible to Hegel for it reduces on the one hand the appearance to the ominous thing-in-itself which has no properties at all and for it empties on the other hand also the "I" so that the subject and the object of cognition become meaningless abstractions. Taken together this shall prove "the untruth of that abstraction." (WL, 692) Still, Hegel's way of obtaining truth by "synthesizing" also includes the moments of reducing and abstracting. Appearance and essence hence persist as two realities which coexist in the object of knowledge even though Hegel tries to transform the former into the latter.

Before scrutinizing the relation of mere appearance and essence in Hegel's philosophy in more detail, it is useful to notice that the structure which Hegel criticises in Kant's epistemology and which Althusser claims still to find in Hegel's own philosophy is indeed an "empirico-transcendental doublet." The essential is the separable entity that enables the existence of the empirical object, yet is somehow bound to the actual existence of empirical objects. For—apart from the analysis which is able to describe the essential *in abstracto*—it is in the empirical objects alone that it can be found, so that "taken in isolation, we cannot *ever* have *the least concept*" (WL, 690) of it.

As Hegel already recognized, it is in the analysis of the actual subject of cognition that the difficulties of such a conception climax. To him "the 'I' is the pure concept itself." (WL, 514) As in Foucault, the subject of cognition is—in other words—the "empirico-transcendental doublet" *par excellence*.

The strangeness of the "empirico-transcendental doublet" which Foucault recognises relates also to the particular case of the "I" as the subject and object of knowledge. It stems from the fact that we derive the transcendental structure of cognition and volition in the subject from their empirical instances. We do not however interpret the empirical instances of cognition and volition as mere actualizations of a potentiality. They are seen rather as an irresolvable combination of the transcendental and the empirical. Yet at the same time, it seems as if actual cognitions and volitions are just empirical occurrences supported by a transcendental structure or framework in the supposed model of cognition. So apparently, it is possible to excavate the transcendental structure and to give an account of it that is purified from all empirical content.

With the historicising of the *a priori*, Foucault wants to avoid the categorical gap between the transcendental and the empirical. The supporting structure

of cognition is itself only an empirical entity. It enables knowledge by ordering and providing schemas or forms of facts. But in history such structures change radically over time and are therefore transcendental only for specific periods and sets of epistemic practices. The Kantian picture of a transcendental structure that supports necessarily all cognitions of rational beings at all times is accordingly an exaggeration in Foucault's view. The task is not to reconstruct the transcendental "I" and the eternal structures of rational cognition, but to analyse the structures of discourses that produce the objects of knowledge at a given historical age.

Althusser's criticism of "transcendental empiricism" goes in the same direction. The object of knowledge is not the creation "of a 'pure' transcendental subject or 'absolute consciousness,' i.e., the myth that idealism produces as a myth in which to recognize and establish itself", as Althusser writes. Rather, "thought" or knowledge

is a peculiar real system, established on and articulated to the real world of a given historical society which maintains determinate relations with nature, a *specific* system, defined by the conditions of its existence and practice, i.e., by a *peculiar structure*, a determinate type of 'combination' (*Verbindung*) between its peculiar raw material (the object of theoretical practice), its peculiar means of production and its relations with the other structures [of] society.

ALTHUSSER 1997, 42

By rephrasing this insight, we might say that abstraction, i.e. the process of extracting transcendental structures, is not merely recovering a real object in the neutral form of knowledge but is the very constitution of this object as an object of knowledge in a specific historical period.

2 Transcendental Freedom

For the further discussion of the relation which the transcendental and the empirical, the essential and the inessential have in Kant and Hegel, I will confine myself to freedom as an especially interesting example. To Kant and Hegel, freedom is a property of rational beings and moral (or political, or social) agents that is not detachable. Yet with Althusser and Foucault, the analysis of freedom implies the questions: Which social structures produce such a notion of the free agent? How is freedom that is not detachable constituted as an object

of knowledge? And by which procedures of abstraction do we gain the respective knowledge?

As is commonly known, for Kant, the apperception of the “I” as the unified place where all cognition is located is supplemented by the cognitive structures of the transcendental subject of knowledge, such as the three dimensional space, the linearly progressing time, or the causal chain of events. All these underlie actual acts of perception and cognition in rational beings. Gerold Prauss (1983, 116ff. and *passim*) has shown extensively that for Kant spontaneity is also an essential precondition for rationality. “Thinking, taken in itself, is merely the logical function and hence the sheer spontaneity of combining the manifold of a merely possible intuition,” (*KrV*, B428) writes Kant accordingly in *The Critique of Pure Reason*. Here, spontaneity is the ability of the subject to give a manifold of impressions an objective structure that is not necessitated by anything within this manifold but created by the free self-activity of the subject alone. “Subjectivity, insofar as it is understanding’s absolute spontaneity, is fundamentally free with respect to its sensibility, namely in the sense ..., that subjectivity is affected but in no way determined to a cognition as judgment by whatever sense data are given to it via its sensibility.” (Prauss 1983, 155)

Without the freedom to organise the received manifold of impressions the rational being would become an animal that is driven by the impressions of outward origin but could not form a notion of what it encounters. Kant strongly insists on the point that understanding and reason are self-activities of the subject and do not, “like sense, contain mere representations that arise only when one is affected by things (hence passive).” (*GMM*, 68/*AA* 4, 452)

In order to fully apprehend this argument, the reader of Kant’s critical philosophy has to understand that rationality requires a distancing from external forces, an impeding of the receptiveness. Reason, as Kant wrote in the first critique, “does not give in to those grounds which are empirically given, and it does not follow the order of things as they are presented in intuition, but with complete spontaneity it makes its own order according to ideas, to which it fits the empirical conditions.” (*KrV*, A548/B576) What here is said about reason holds also for understanding even though Kant discriminates the degree of freedom which understanding and reason have respectively since understanding “can produce no other concepts from its activity except those that merely serve to *bring sensible representations under rules* and thereby to unite them in one consciousness” (*GMM*, 68/*AA* 4, 452). Understanding is hence “self-activity” whereas reason is freedom to a higher degree as it is said to be “pure self-activity” producing transcendental ideas, e.g. the idea of freedom, which are independent of sensible representations.

Nevertheless, understanding also requires the impeding of receptiveness since only such an interruption of the causal chain allows the ordering of impressions to facts that could be true or false, rightly or misperceived. If there were no gap between the flow of impressions and the interpretation the subject gives them, then the whole idea of judgement would immediately collapse.

As Leibniz already showed in his *Theodicy*, the fact that we could give an account for the reasons that led a rational agent to a particular action or judgement should not lead us to the conclusion that this very action was not an actualisation of freedom for the rational agent can choose which inclinations he or she follows. "I am of opinion," explains Leibniz the coexistence of determining inclinations and freedom, "that the will is always more inclined towards the course it adopts, but that it is never bound by the necessity to adopt it. That it will adopt this course is certain, but it is not necessary." (Leibniz 1951, pt. 1, § 43) In other words, freedom is not defined by the absence of external forces and inner inclinations or by any kind of equilibrium that neutralises forces and inclinations but by the ability to follow some of them deliberately. "There is always a prevailing reason which prompts the will to its choice, and for the maintenance of freedom for the will it suffices that this reason should incline without necessitating." (Leibniz 1951, pt. 1, § 45)

Theoretical freedom in Kant as practical freedom in Leibniz is therefore not hindered by the presence of sensual impressions. And of course this equivalence holds even more for practical freedom. If an agent solely follows his or her inclinations without the ability to do otherwise by his or her spontaneous will then the notion of a legal, moral, or self-given law is not applicable to the actions of such an agent. Hence, "a rational being has to regard itself *as an intelligence* ..., as belonging not to the world of sense but to the world of understanding." (GMM, 68/AA 4, 452)

Freedom as spontaneity or self induced activity is accordingly in Kant indeed an essential feature of human volition and cognition. Kant's analysis leaves no room for historicising the capability to act freely. Freedom is such a strong precondition for rationality that thought or morality becomes incomprehensible without it. Yet, this proliferation of freedom to all human action—be it theoretical or practical—comes at a price. Kant's notion of freedom is highly abstract. It is purified from all social and political meaning. It doesn't even refer to particular ways of thinking or choosing. Kant reduces freedom to the pure capability to block the causal chain of natural processes and start a new causal chain out of freedom instead. Freedom is "the faculty of beginning a state *from itself* (*von selbst*), the causality of which does not in turn stand under another cause determining it in time in accordance with the law of nature." (KrV, A533/B561) All kinds of external conditions might influence or restrict

this new causal chain; nevertheless, it is an actualisation of freedom by virtue of the fact that it began with an act of unenforceable self-activity.

As is commonly known, Kant himself thought to derive a concrete moral order from this abstract notion of freedom. The categorical imperative shall express the consequences that follow from the recognition and respect of freedom in all human activity. (cf. *GMM*, 70/*AA* 4, 454) But, freedom itself does not depend on being recognised or respected. It is an essential part of human nature; and therefore, human nature cannot forfeit its spontaneity as long as it persists. Hobbes drew the extreme consequence of this long before Kant when he acknowledged every act of submission as a result of the free will as long as there was no mechanical device that put forth the act of submitting. For counting as a free act it is enough that the subject has the chance to do otherwise regardless of the fatal consequences such a choice might actually bring about. (cf. Hobbes 1994, Ch. 21, § 22)

Obviously, such an analysis leaves out most forms of coercion. As the example of Kant shows, it can provide arguments for the recognition and respect of freedom in other persons. Yet, the idea of actualizing freedom apart from the mere exercise of spontaneity is completely alien to it. A social order which respects personal freedom and encourages its expression is supposedly more in tune with human nature, but it does not change the nature of freedom itself.

3 Actualized Freedom

So far, Althusser is justified to impute the described model of cognition to German Idealism. In Kant, freedom is indeed a pure element in human theoretical and practical activity which philosophical analysis can retrieve. And the presupposition of freedom is grounded in the empirical knowledge of instances of cognition and volition since we do indeed experience the spontaneity of such acts—especially, if we perform them ourselves.

As a matter of fact, the evidence of freedom is so strong that it cannot be overruled by “scientific” insights in the human constitution that deny it. Be it the art of physiognomy in the 19th century or neuro-science today, “every honest fellow to the end of time, when thus addressed, will retort with a box on the ear” (*PhG*, 193), as Hegel quotes Lichtenberg approvingly in the *Phenomenology of Spirit*. “The true being of a man is rather his deed” (*PhG*, 193), proceeds Hegel, thereby discriminating physical phenomena from the individuality, which “in the deed, exhibits itself rather as the *negative* essence, which only is in so far as it supersedes *being*.” (*PhG*, 194) Here, negativity of superseding (*aufheben*) is nothing else as the interruption of causal chains

or—more generally speaking—natural processes and the beginning of a new causality by the subject. In other words, it is an exact equivalent to the Kantian interpretation of spontaneity. And the violent retort that Hegel approves of is only the confirmation that nothing can overcome the empirical evidence of spontaneity, negativity, or freedom. No argument is possible with somebody who denies this fundamental condition of human agency. If someone derives the characteristic traits of a person phrenologically from the skull-bone Hegel even considers the more violent advice “to go the length of beating in the skull of anyone making such a judgement, in order to demonstrate in a manner just as palpable as his wisdom, that for a man, a bone is nothing in itself, much less his true reality.” (*PhG*, 205) Could there be a more striking expression of the fact that human freedom is for Hegel as for Kant a matter of undeniable evidence and theoretical primacy?

But concerning Hegel, this is only half of the story. For it is Hegel, who coins the term “actualization of freedom.” In the introductory part of the *Lectures on the Philosophy of World History* from 1830–1, he claims that the state and the state alone “is the actualization of Freedom.” (*LPWH*, 102) Accordingly, he discards the concept of natural freedom and replaces it with a theory of freedom as liberation. “There is,” he writes,

of course a restriction imposed by society and the state, but this is a restriction of these dull-witted emotions and raw impulses, and of preferences based on reflection too, as well as of the needs, choices, and fervor arising from cultural formation. These restrictions are part of the mediation by which the consciousness and the will of freedom in its true form, that is, its rational and conceptual form, are first engendered.

LPWH, 103

In closing this passage, he adds: “such a restriction is the absolute condition from which liberation proceeds, and society and the state instead provide the condition in which freedom is actualized.” (*Ibid.*)

Does this mean that Hegel in his later period abandons the Kantian point of view that freedom is the most essential part of the human rational nature? Surely, this is not the case. Hegel holds on to the view that spirit is essentially free. Therefore, the actualization of freedom is not an arbitrary, but the “absolute” or “universal *final end*” (*LPWH*, 127) of history to him.

He justifies this central claim with reference to the driving force of history. It is not directly the desire to actualize rationality and freedom that pushes history forward but the many desires of human beings. “All these expressions

of individual and public life, in seeking and satisfying *their own* ends, are at the same time the *means* and *instruments of a higher* and wider purpose, which they know nothing of but unconsciously carry out." (LPWH, 94) The actualization of freedom is thus for the most part in history a by-product. But it is a by-product which is intrinsically related to the pursuit of all the profane human ends which drive historical developments. So the agents in history "bring about something additional that indeed is implicit in their actions but was not present in their consciousness and intention." (Ibid.)

What intrinsically relates the actions of individual subjects who are following their partial interests, to the implicit absolute end of history is first and foremost Kant's fundamental spontaneity. As soon as the normal routines of the daily reproduction of individual and social life are not or no longer able to satisfy the various desires of the potential historical agents, the pursuit of the fulfilment of those needs presupposes free agency. In such a situation people cannot get what they long for if they just follow habitual routines. They have to break with the socially instituted causal connections. Yet, if their efforts are successful, the success is very likely to initiate a change in the institutional order of society—a change which institutionalises the new form of agency and eventually allows thereby for a greater range of free actions. By this effect of free agency on an already established social order, the initial spontaneity of the historical agents is in fact implicitly related to the actualization of freedom on an institutional level. And we can understand why Hegel thinks that actualized freedom is the result of individual subjects exercising their spontaneity while following their partial interests. History presupposes free agents in the first place and produces in its course the conditions for more free agency.

Freedom as the precondition for the actualization of freedom is the formula that results from this mixture of the two heterogeneous concepts of freedom in Hegel. Freedom is the essential, undeniable, and not detachable property of human agents; and it is at the same time something that is not realisable in a state of nature but demands a highly institutionalized social structure, i.e. the state. Thus, it seems as if Hegel's free historical agent is just another epitome of a "strange empirico-transcendental doublet."

But apart from the implicit relation of spontaneity and institutionalized social freedom, there remains the question whether "freedom" describes here one single concept or maybe two things which although related to each other go by the same name only coincidentally. What brings about the conceptual unity of those two seemingly incompatible concepts of freedom? And are we any closer to the demands of Foucault and Althusser that freedom on a conceptual level has to be part of an historical social order?

4 The Self-determination of Freedom

In order to explain the “dialectics”—as we might call it—of freedom in Hegel, we have to take into account that freedom in Hegel is not just a simple concept but an idea, i.e. that which is “the absolute unity of the concept and objectivity” (*Enc*, § 213) in the field of knowledge. Such a unity—as Hegel warns us in the remark to § 213 of the *Encyclopedia*—is not attainable by abstraction alone. The idea is abstract of course, as Hegel explains, “insofar as everything *untrue* is consumed in it. However, in itself it is essentially *concrete* since it is the free concept, the concept determining itself and thereby determining itself as reality.” (*Enc*, § 213 Remark)

In the practical realm, to which the idea of freedom belongs, it is easier to understand what it actually means that a so called “free concept” is “determining itself and thereby determining itself as reality.” In *The Science of Logic* Hegel himself uses a practical idea—the idea of the state—in order to exemplify how an idea is the real part of an objectivity which is not in accordance with the notion that describes it:

if a subject matter, say the state, *did not at all conform* to its idea, that is to say, if it were not rather the idea of the state; if its reality, which is the self-conscious individuals, did not correspond at all to the concept, its ... body [would have] been dispersed into singular individualities. But because the concept of the state is essential to the nature of these individualities, it is present in them as so mighty an impulse that they are driven to translate it into reality ... The worst state, one whose reality least corresponds to the concept, in so far as it still has concrete existence, is yet idea; the individuals still obey the power of a concept.

WL, 672f

The concept of the state finds its actualization through the essentially social individuals who self-consciously try to organise the social life while they are depending on the rationality, i.e. the well-functioning, of their organised social life. The state on the other hand has reality only insofar as the social life of the individuals is indeed working. All parts of its actualization which are malfunctioning or irrelevant for the functioning of the social life are hence not essential. They are no part of the idea in its concreteness. Yet, the more the social individuals succeed in organising their social life the more the idea of the state gains actuality and concreteness. Their initial sociality is therefore giving itself the most appropriate and accordingly most concrete form in the course of the improvements of social institutions.

But, how is freedom conceptually determining itself? The expression of spontaneity, the most basic concept of freedom we encountered, collides very often with the social rules and institutions that organise the social life. As we know already, Hegel discards the possibility that real freedom is the absence of social limitations. Instead he describes history as a process of liberation; and liberation is a development of norms and institutions, according to the needs of spontaneity and to the complex preconditions of human agency.

That liberation is in principle possible follows from the fact that the limits which an agent encounters in a given historical situation are themselves the outcome of previous spontaneous activity. Every society is a complex of practices which produce and reproduce the individual as well as the common life. Therefore, societies are the result of human action and need to be sustained by such actions. This explains why social orders are changeable. Even a social order which is designed to provide a society with the highest possible stability is in any case an effect of human freedom in the most basic sense. It relies on acts that are themselves spontaneous. Habituation, strong incentives or harsh punishment might be installed to guarantee good conduct in the sense that the particular social order is upheld, but none of these instruments can remove the basic freedom. On the contrary, they are the clear sign that spontaneous acts need to be regulated for the preservation of the social order.

As we can read in student notes of the introduction to *The Philosophy of World History*, historical changes result, according to Hegel, from “those great collisions between established and acknowledged duties, laws and rights on one hand, and new possibilities which conflict with the existing system and violate it or even destroy its very foundations and continued existence, on the other (although their content may appear equally good and for the most part propitious, essential, and necessary.)” (*LPWH-Hoffmeister* 82) It is important to note again that the advantage those possibilities have is primarily one for the self-interested individual. Also in the case of the “world-historical individuals” (*LPWH* 96), it is not the insight in a philosophical idea such as freedom or justice that drives them to change the social fabric. Though, it isn’t an arbitrary will either that has the potential to induce new social practices. Hegel believes that such a renewal is only possible if the performative breach of duties, laws, and rights reacts to a general problem or desire.

We can derive from this description of historical change that the wider public has to take part in the actions of the great individuals for them to succeed. And this entails that the wider public approves spontaneous, even arbitrary and capricious acts as long as it sees own personal interests advanced by them. As we have seen already, this leads to the probable by-product that new social orders are at least inclined to give more room for spontaneity. In some cases

this only extends to the spontaneity of the historical individual and his or her successors, but more often it shall be a widening of opportunities for all members of society.

Accordingly, the core of liberation is for Hegel to enable spontaneous acts. This is to him also the inner truth of history. History is the result of spontaneous acts and it tends to produce a social order that increasingly allows such acts to change the social order without destroying sociality altogether. Hegel marks the transition which this fundamental insight generates in history itself by the famous definition: "World history is the progress of the consciousness of freedom." (*LPWH*, 88) The knowledge of history's inner truth can transform freedom from a by-product of historical actions to the very goal of such deeds.

Yet, be it the unconscious result of human actions or their very end, institutionalised freedom remains conceptually bound to the notion of freedom as spontaneity. Paraphrasing the passage quoted above on the efficacy that the concept of the state demonstrates in history, we could say that freedom understood as spontaneity is essential to the nature of individuals, and therefore is present in them as so mighty an impulse that they are driven to translate it into institutionalised reality.

Institutionalised freedom is the form that spontaneity obtains if it is confronted with the conditions that enable social human actions of high complexity. While Kant's notion of spontaneity is just an abstract possibility that is present in every human action but leaves us ignorant with regard to all the social fetters actual actions have to confront, Hegel's developed forms of institutionalised freedom describe the concrete possibilities to exercise spontaneity under social conditions. Freedom is hence not something other than spontaneity. It is the concretization of spontaneity.

5 The Idea of Freedom

Since the spontaneity of human agents fuels the drive to actualize freedom in an institutionalised social order, freedom is a historical concept. Every order has to deal with the spontaneity of the people who live under it and sustain it by their daily conduct. Yet, there are different degrees of freedom in different social orders, different kinds of limitations, and different levels of appreciation for spontaneity. But not the actualizations of freedom alone, also the concept of freedom takes varying forms in history depending on the state and level of its current actualization. In order to evaluate the varied historical forms of freedom, Hegel introduces the idea of freedom above all the historically changing actualizations and even above the concept of freedom.

To Hegel, history is first and foremost the development of institutions that allow for spontaneity and complex social cooperation at the same time. The difference between the concept of freedom and its historical actualization determines the parts of the actualization which do not fit the concept. Although those parts have a reality of their own, it is a reality—as Hegel remarks—that “is rather already presupposed as an actuality which is in and for itself void (*an und für sich nichtige*), nothing objective.” (WL, 733; translation altered) The overarching idea of freedom however demands the identity of a spontaneity that is oriented towards social cooperation and an institutionalised social order which enables such spontaneity, i.e. the full identity of concept and reality. The idea of freedom is therefore neither exhausted by the concept of spontaneity alone nor by the recognition of any particular historical order of regulating (i.e. enabling and limiting) free acts. The idea of freedom is rather the shining forth of the reconciliation of the arbitrary individual will and the concrete social order.

Most interpreters find it hard to discern such an idea of freedom from what Kant calls an “idea.” According to Hegel, Kant’s idea is “*transcendent* with respect to appearances, that is, one for which *no adequate empirical use* can be made.” (WL, 670) Hegel criticises this Kantian version of the idea and wants to “reserve the expression ‘idea’ for the objective or real concept” which he distinguishes “from the concept itself and still more from mere representation”, but most of all from “that estimate of it according to which the idea is something with no actuality” (WL, 671). Taken the characterisation of Kant’s idea and Hegel’s own determinations together, it is clear that—above all—Hegel disapproves of the lack of actuality in Kant’s ideas.

Recently, Ludwig Siep has summarized the problems that arise from Hegel’s confrontation with Kant’s position on the idea. Siep sees mainly two readings: either nature is not fully adequate to the concept and “no final actualization of the idea is possible” (Siep 2018, 732) or “the actualization of freedom is a permanent communication on norms” (Siep 2018, 733). In the first case, the idea corresponds basically to the Kantian version where actualization of freedom is at best an asymptotic approach. But this would entail that the actualized idea is infinitely far from reality—a position that is hardly compatible with Hegel’s emphasis on the reality of the idea and the irreality of the mere appearances. In the second case, the readings are closer to “the already actualized institutions of freedom in the social world”; but the danger is here that the norms used for the criticism of those institutions become for their part what Hegel calls a “mere ought.” (Ibid.)

Obviously, the two schools of readings struggle with the same problem. Hegel’s idea has to function in two ways at once. It is the symbol of what is real

in every actualization of freedom. And it designates at the same time the maximal reality which freedom can achieve. In this second sense it abstracts from all the moments of the historically given reality which do not belong to or even contradict the actualization of freedom by declaring them to be “void” and “nothing objective” in comparison to the reality of the idea or concept. This is a kind of abstraction which is at first sight indistinguishable from the abstraction which Hegel criticises in Kant when the latter discards the sensuous manifold. So the question becomes pressing: How could the idea of freedom possibly be real and abstract at the same time?

As the example of the worst state showed already, the actualization of an idea—as imperfect as it may be—is only an actualization of this very idea insofar as it actualizes some of its elements. Accordingly, every historical concept of freedom either comprises the current regime of reproduction insofar as it already allows for spontaneity up to a certain degree or—if present—alternative possibilities that promise to resolve the heteronomy incorporated in this regime. Thus, the historical concepts of freedom always participate in the perspective that the idea of freedom opens up. Their flaws with regard to this idea again encourage further steps of liberation. In addition, the idea itself contains also the promise that this reality of the idea is expandable to further elements and finally to a situation where there is no conflict between the social limitations and the spontaneity of the individualities so that freedom attains its maximal reality. This is the reason why it looks from the one side as if Hegel still postulates an infinitely far-out ideal and from the other as if he ties the actual freedom conservatively to a historically already realised version of institutionalised freedom.

In fact, Hegel's ideas are always abstract determinations. They depend on their concretization in concepts and actualizations. Yet, they are not abstract in the sense of an infinitely far-out and unattainable ideal but as a measure for historical or conceptual progress. An idea helps us to discern successful historical changes from backlashes and mere alterations. The idea is not an abstract norm opposite an imperfect or bad reality, but the determination of what could count as a positive further development. With the idea, we know that “the concept,” i.e. the conceptual reflection of the historical actualization of freedom, “only stands in its own way, and all that it has to do about it is to turn, not against an external actuality, but against itself.” (*WL*, 733)

Here again, we find the double determination of the idea. For the turn of the concept against itself has to be compatible with the negation of everything that in an actualization is in conflict with the reality as it is present in the concept and the idea. So, the turn against itself cannot mean that “bad specimens

are also to be covered by the definition." (*WL*, 712) Hegel remains absolutely clear about the fact that for instance "the essentiality of the protection of life and of property"—core elements of his concept of the state—"is missing in the instance of despotic states and tyrannical governments." (*Ibid.*) To Hegel, therefore, it would be nonsense to reconceptualise the state in a way that allows for the inclusion of tyrannical and despotic regimes instead of judging them as "instances of malformation." (*Ibid.*)

If the idea is said to overcome the abstract opposition of actualization and concept this overcoming needs to be practical. It is possible only by social change that abolishes what hinders freedom to be fully actualized. But by speaking of concept's turn against itself, Hegel reminds us that such social change is not effectuated by modelling reality according to an abstract ideal which functions as a blueprint for the construction of society. Concept's turn against itself means that the vision of a fully actualized freedom has to be founded in the actualizations of freedom insofar as they already have reality. The idea of freedom will not be fully actualized out of thin air but on the basis of all the historical actualizations of freedom which have given it a reality that is far richer than the mere notion of spontaneity.

Hence, in contrast to Kant's rather simple notion of freedom as spontaneity that was quite adequately described by the Althusserian model of transcendental empiricism, Hegel's account of freedom is quite intricate. Surely, the very abstract concept of spontaneity remains still crucial. Without spontaneity no human agency and hence no history is possible. Yet, neither the concept nor the idea of freedom coincides with spontaneity. Spontaneity becomes instead an element that expresses itself within a historical situation and thereby gains reality. As a consequence, the Althusserian model loses much of its persuasiveness. As spontaneity, freedom is still a grain of gold embodied within the dross of empirical actions. But, the analysis is no longer interested in extracting and separating the gold. Hegel rather wants to know how spontaneity is transformed in a system of institutions that sustains and encourages freedom.

Althusser's idea that in epistemology the object of knowledge depends on the relations to all the other objects of knowledge which define it in their interplay and that a scientific revolution consists in the refiguration of such a structure, is actually pretty close to the Hegelian model. A new concept of freedom is the consequence of a reconfiguration of the social practices that regulate spontaneity. But, whereas Althusser emphasises the radical differences between particular objects of knowledge and hence the incompatibilities of successive concepts of freedom, Hegel provides us with the idea of freedom that defines the common field for these heterogeneous actualizations.

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Justification of the State: Kant and Hegel

Jiří Chotáš

Both Kant and Hegel are convinced that state is essential for human coexistence and cannot be replaced by another institution. Their justification of the state and their understanding of it does, however, differ. Kant is a theorist of natural rights and social contract, while Hegel is known as a critic of both of these theories and a theorist of an ethical state. What, however, do these two claims actually mean and in what respects do they contradict each other? What are their consequences for the notion of state within a broader context of philosophy of these two thinkers? These are the main questions we will try to answer in the following.

1 The State of Nature, Civil Condition, and the Original Contract in Kant

In his late writing *The Metaphysics of Morals* (1797), Kant—similarly to Hobbes—justifies the need of a state by human nature. He claims that by their nature, people live in a “state of nature” (*status naturalis*), where they are not subjected to one another and do not form communities. A state of nature among individuals has the following characteristics:

It is not experience from which we learn of the maxim of violence in human beings and of their malevolent tendency to attack one another before external legislation endowed with power appears, thus it is not some deed that makes coercion through public law necessary. On the contrary, however well disposed and law-abiding men might be, it still lies a priori in the rational idea of such a condition ... that before a public lawful condition is established individual human beings, peoples, and states can never be secure against violence from one another, since each has its own right *to do what seems right and good to it* and not to be dependent upon another’s opinion about this.

MM, 455–456 [AA VI, 312]

Consequences of such a natural state are readily apparent: everyone has a right to interpret their rights in their own ways and in a manner advantageous to them. With regard to having rights respected, people are at each other's mercy. No one has the right to force another person to behave in accordance to law, for instance, to obey agreements or treaties. A natural state is a state where the choice of one person is independent of the choice of another person (Ebbinghaus 1968, 27–28).

Kant foresees a possible objection to the effect that while a state of nature need not be viewed as a state of injustice where individuals treat one another from a position of force, it is a state where there exists no public justice. In a natural state, there is no impartial judge who could adjudicate between two individuals if their rights are in conflict, a judge whose verdict would be binding for both parties. Instead, everyone is a judge regarding their own affairs and that leads to conflicts between individuals.¹

Kant illustrates the repercussions of the state of nature using an example from property law. He says that “although each can acquire something external by taking control of it or by contract in accordance with its *concepts of right*, this acquisition is ... only *provisional*” (*MM*, 456 [AA VI, 312]). Such acquisition is not guaranteed by a judicial power, nor is it secured by an authority that would supervise that property laws are observed. Kant views the original acquisition of private property as a case of taking control (*occupatio*) of it (*MM*, 412 [AA VI, 259]). Subsequently, however, such acquisition must be announced to others and validated by a judicial power. In the state of nature, however, others need not respect my announcement and there is no judicial power to validate my claim. All acquisition of property is thus uncertain and reduced to mere physical possession, i.e., to holding.

According to Kant, absence of law in the state of nature necessitates a departure from this state and adoption of a civil condition (*status civilis*) among people:

the principle [is] that it [= individual human being] must leave the state of nature, in which each follows its own judgement, unite itself with all others (with which it cannot avoid interacting), subject itself to a public lawful external coercion, and so enter into a condition in which what is

¹ Kant adopts this argument from Locke. Cf. “I easily grant, that *Civil Government* is the proper Remedy for the Inconveniences of the State of Nature, which must certainly be Great, where Men may be Judges in their own Case, since tis easily to be imagined, that he who was so unjust as to do his Brother an Injury, will scarce be so just as to condemn himself for it” (*TT*, 276 [II §13]).

to be recognized as belonging to it is determined *by law* and is allotted to it by adequate *power* (not its own but an external power); that is to say, it ought above all else to enter a civil condition.

MM, 456 [*AA* VI, 312]

In his polemic with the German lawyer Gottfried Achenwall, Kant makes a distinction between a social and a civil condition. Achenwall claims that the opposite of a state of nature is an artificial condition (*status artificialis*) which is to be understood as a social condition.² In reaction to this assertion, Kant notes that even in the state of nature, there can exist some societies (such as relations in a household, between spouses, or children and their parents as well as relations between masters and servants) to which the a priori condition that they are established artificially does not apply. Such societies exist from nature. According to Kant, what characterizes a civil union (*unio civilis*) is that it is not a society, because in such an arrangement there is no partnership between the commander (*imperans*) and his subject (*subditus*) (*MM*, 451 [*AA* VI, 306–307]). A commander and his subject are not fellow-members: one is simply subordinated to the other. Civil union does, however, lead to the establishment of a society because those who are fellows within it consider themselves equals “since they are subject to common laws” (*ibid.*). Kant concludes this argument by stating that while civil union cannot itself be considered a society, it does create favorable conditions for its establishment.

The manner in which the state of nature is transformed into a civil union is described by Kant as the original contract:

The act by which a people forms itself into a state is the *original contract*. Properly speaking, the original contract is only the idea of this act, in terms of which alone we can think of the legitimacy of a state. In accordance with the original contract, everyone (*omnes et singuli*) within a *people* gives up his external freedom in order to take it up again immediately as a member of a commonwealth, that is, of a people considered as a state (*universi*).

MM, 459 [*AA* VI, 315]

As in Rousseau's conception, conclusion of the original contract creates a “general united will” of the people and that is the source of all law. This act also

2 “Consideravimus parte operis huius priori iura atque obligationes naturales, quae in statu hominum singulorum extrasociali seu naturali obtinent: nunc ad eas, quae ex statu sociali deducuntur, explicandas accingimur.” (Achenwall quoted in *AA* XIX, 332)

establishes a relation between a superior, which is the united people itself, and its subjects, which consists of citizens and their government. Kant insists, again similarly to Rousseau, that by this act, the “original external freedom” of individuals acquires a new quality: the erstwhile “wild, lawless freedom” is transformed into a rightful condition, which implies dependence upon laws.³

Kant is familiar with Hume’s critique of theories of social contract based on an observation that throughout the history of humankind, it has most rarely been the case that government is based on the consent of its subjects (Hume 1756, 351–375). For this reason, he does not require the original contract to be explicit, or even tacit. All that is required is that it functions as a regulative idea where the consent is merely hypothetical. A regent is then supposed to act as if the people concluded such a contract among themselves and on its basis delegated him to his office.

2 The State, Division of Political Power, and Loyalty of Citizens

After thus justifying state’s existence, Kant proceeds to its characterization. In his view, a state is “a union of a multitude of human beings under laws of right” (*MM*, 456 [*AA* VI, 313]). In this context, he makes a distinction between a state in idea, i.e., a state as it ought to be according to pure legal principles, and actually existing states, which should look to the state in idea as a norm for their internal organization. Then Kant goes on to advocate a reform of political establishment of all states in accordance with the spirit of the original contract:

But the *spirit* of the original contract ... involves an obligation on the part of the constituting authority to make the *kind of government* suited to the idea of the original contract. Accordingly, even if this cannot be done all at once, it is under obligation to change the kind of government gradually and continually so that it harmonizes *in its effect* with the only

3 If individuals, after concluding a social contract, retained the rights they have in the state of nature, such as rights to life, liberties, and estates (as in Locke), regent’s task would consist in merely protecting these rights. Following Rousseau, however, Kant requires that upon conclusion of the social contract individuals abjure all their earlier rights in exchange for civil rights, which protect them much more effectively. Among other things, this argument precludes a scenario where the people resist or oppose the legislative head of a state, because a rightful condition is possible only if people submit to its general legislative power. When reconstructing Kant’s arguments against the right to revolt, Beiser overlooks the difference between retaining some natural rights and their utter abjuration in exchange for civil rights (Beiser 1992, 45–46).

constitution that accords with right, that of a pure republic, in such a way that the old (empirical) statutory forms, which served merely to bring about the *submission* of the people, are replaced by the original (rational) form, the only form which make *freedom* the principle.

MM, 480 [AA VI, 340]

He demands a gradual rationalization of legal relations in the state in accordance with the principles of Enlightenment. In Kant's view, every state ought to adopt as its basic document a constitution that would express the rights of all people united in it. Currently valid laws should be examined with respect to this constitution and if they are found to be at variance with it, they should be either changed so as to conform to the constitution or abolished. Kant does not specify the possible obstacles which such a legal reform might face, such as citizens' morals or religion. He is convinced that such a reform is both necessary from the perspective of people's rights and feasible.

Kant makes a distinction between three authorities in a state which are the expression of the people's "general united will": sovereign authority embodied in the person of a legislator, executive authority in the person of a ruler, and judicial authority in the person of a judge. Kant's conception of mutual relations between these authorities differs from Montesquieu's proposal. Where Montesquieu insists on the importance of relations between authorities in a state functioning as a system of checks against the abuse of power,⁴ Kant emphasizes their cooperation, their hierarchy (legislative—executive—judicial authority), and finally the benefits which their cooperation brings to citizens and their rights. He, too, however, believes that neither of these three authorities should try to usurp the function of the others and that each should be guided by its own principles.

Most important of the authorities in a state is the legislative authority, which is, according to Kant, bestowed only by the "united will of the people" (*MM*, 457 [AA VI, 313]). This authority is, in virtue of the original contract, the source of all (public) right and laws. Kant emphasizes that state governance is stable only if it makes its own laws, i.e., if it is autonomous (*MM*, 480–481 [AA VI, 341]). In such a system, no one can suffer injustice because thanks to his or her vote, everyone has a political representation. Kant is not an advocate of direct democracy but rather of a representative republic:

4 "[I]t is necessary, from the very nature of things, that power should be a check to power" (*SL* 186 [Book XI, 4]).

Any true republic is and can only be a *system representing* the people, in order to protect its rights in its name, by all citizens united and acting through their delegates (deputies). But as soon as a person who is head of state (whether it be a king, nobility, or the whole of the population, the democratic union) also lets itself be represented, then the united people does not merely *represent* the sovereign: It is the sovereign itself.

MM, 481 [AA VI, 341]

We do not know whether, when writing these lines, Kant had in mind the French Republic or the adoption of a federal constitution in the United States of America. He seems to have harbored some sympathy to political developments in both of these countries, which he expressed also in his writings (e.g. Gross 1993, 135–136; *CF*, 302 [AA VII, 85–86]). He advocated democratic representation of the kind that was, on the European continent, established in France during the revolution. With respect to Prussia, he saw a democratic parliament as a “thought-identity” (*Gedankending*) that does not yet correspond to reality.

The second most important authority in the state is the ruler, who has the executive authority. A ruler is an agent of the state who appoints officials and prescribes rules according to which people can acquire and hold private property. A ruler cannot, however, usurp the role of a judge. An important feature of Kant’s conception is that a ruler does not issue laws but merely ordinances or decrees related to adjudication of particular cases (*MM*, 460 [AA VI, 316]). These decrees and ordinances can change according to circumstances. In this context, Kant distinguishes between a paternalistic and a patriotic government. A paternalistic government⁵ prescribes laws to people and is despotic, because it treats citizens as children. A patriotic government, on the other hand, understands its office as service to the native land. Kant is much more concerned with the republican manner of government, that is, with rulers exercising their power for the benefit of citizens, than with a state being an autocracy, aristocracy, or democracy.

Kant also makes a terminological distinction between a people’s sovereign (*Beherrscher*) and a ruler (*Regent*). A ruler, who receives his authority from the sovereign, must make his decisions in accordance with laws. Moreover, “[t]he sovereign can also take the ruler’s authority away from him, depose him, or reform his administration. But it cannot *punish* him” (*MM*, 460 [AA VI, 317]).⁶

⁵ Kant probably refers here to Friedrich II and his rule in Prussia (cf. Henrich 1976, 361).

⁶ Beiser in his reconstruction of Kant’s arguments against the right to revolt does not quote this passage (Beiser 1992, 44–48). This piece of text, however, clearly shows that like Locke,

Kant, like Locke, considers various situations under which a ruler can be legitimately deposed. It can only happen through laws, that is, the authority which placed a ruler in his function should also have the option of taking it away from him. It should not be, however, tempted to punish the sovereign (cf. *TT*, 412 [§222]). It is known that Kant found the execution of Charles I and especially of Louis XVI most objectionable. He rejects any *active* resistance against the government, that is, he renounces the notion of the people taking executive power in their hands but allows for the option of *negative* resistance. In other words, he believes that deputies gathered in a parliament may refuse to accede to government's demands if they be incompatible with their conscience.

The third authority in a state is the judicial authority. Kant demands that this power be independent of the two aforementioned kinds of authority (*MM*, 460–461 [AA VI, 317]). A ruler should merely appoint judges as officials of the state. Courts as such should then consist of jurors appointed for each case anew. Given that in Kant's time, executive power in Prussia was interconnected with the judicial power, Kant's considerations upon this subject should be seen as a proposal of a reform (Westphal 1992, 404).

Let us now summarize Kant's thoughts on the state and its role in people's lives. It is clearly a strong point of Kant's normative theory that using the notions of a "state of nature" and "civil condition," he offers a justification of a state as an institution that establishes laws which regulate interpersonal relations. State is an institution needed to secure private ownership and to protect it from interference (*Eingriff*) by other people. The main weakness of Kant's normative approach is its treatment of the relation between the principles of legitimization of state authority on the one hand and actually existing states on the other hand. Kant assumes that all states will gradually adopt the principles of republican government. He does not consider the various possible obstacles, stemming e.g. from human mentality, which could challenge such a proposal or even make it unfeasible. Is it really the case that even nowadays a republican government is the most suitable form of governing highly hierarchical societies, for example in Asia, or societies ruled by family clans, such as for instance in the Middle East? Kant's silence on this point can be explained by his euphoric reaction to the French Revolution. He was convinced that republic as a form of political establishment is unrivalled and will, over time, prevail in all states of the world.

Kant, too, admits that opposition to a ruler can be legitimate, albeit murder of a tyrant should always be avoided. Westphal correctly notes that "This remark is the closest Kant comes in the *Metaphysical Elements of Justice* to mentioning impeachment, the legitimacy of which was long established in English law" (Westphal 1992, 400).

3 Hegel's Scientific Proof of the Concept of State and Ethical Life

Hegel finds Kant's justification of the state unacceptable. His main objection is that in defining the nature of the state, Kant uses terminology related to private ownership, such as the notion of contract. The rights of a sovereign and the state are subject to a contract which reflects the common will of both parties. Such rights, however, would be based on an arbitrary will of individuals who decided to establish a state (*Rph* 106 [§75 R]).⁷ Hegel's objection against such a justification focuses on the transfer of concepts linked to the sphere of private ownership to the realm of ethical life and state, that is, their use in two areas which are radically different. His criticism is based on a claim that ethical life and state in fact have a different nature than Kant ascribed to them.

In his *Elements of the Philosophy of Right* (= *Philosophy of Right*, 1820), Hegel proposes a different justification of the state. He calls it his "*scientific proof* of the concept of the state." It is based on an outline of the "development of immediate ethical life [in the family] through the division of civil society and on to the state" (*Rph* 273–274 [§256 R]).⁸ Hegel is convinced that it is "a proof which only a development of this kind can furnish" (*Rph* 274 [§256 R]).⁹ Special difficulty with this justification lies in the fact that from a *cognitive perspective*, explanation of the notion of the state should follow after descriptions of the family and a civil society. From an *ontological perspective*, however, state is the foundation of both of these institutions. Hegel thus in his exposition anticipates the concept of state without notifying his readers of this fact at the relevant places.¹⁰

7 Hegel presents a similar argument also in his essay *Natural Law* (1802), written during his stay in Jena. Cf. *NL* 123–124.

8 Hegel's proof of the concept of state tends to receive less attention than other parts of his philosophy. For instance Westphal does not mention it at all (Westphal 1993, 256).

9 In his *Philosophy of Right*, Hegel does not explain the methodology of his proof. In the Preface, he merely notes: "But I am here presupposing that the philosophical manner of progressing from one topic to another and of conducting a scientific proof—this entire speculative mode of cognition—is essentially different from other modes of cognition" (*Rph* 10 [Preface]). In our exposition, we leave aside the relation between speculative knowledge as described in the *Philosophy of Right* and Hegel's speculative logic. This subject is treated, e.g., in Henrich 2004 and Vieweg 2012.

10 I believe that Hegel's intentions with respect to writing the *Philosophy of Right* should be respected, which is why I find it problematic to quote additions to Hegel's work which were introduced by his student Eduard Gans. These additions paraphrase transcripts of Hegel's lectures as recorded by H.G. Hotho (1822–1823) and K.G. von Griesheim (1824–1825) (Nisbet 1991, xxxvi). They are, however, highly relevant to our subject because in these passages, Gans explains the differences between a family, civil society, and a state. In the following, I therefore quote them only where necessary.

Before proceeding to an exposition of the individual parts of Hegel's proof of the concept of state, a few words on his concept of "ethical life" (*Sittlichkeit*) are needed now. Ethical life, Hegel says, is "the *Idea of freedom* as the living good which has its knowledge and volition in self-consciousness, and its actuality through self-conscious action" (*Rph* 189 [§142]). He agrees with Kant regarding the point that freedom creates human substance and makes people distinct from nature. Unlike Kant, however, Hegel also considers the conditions under which freedom can be realized. These conditions are present in the institutions and ethical life of the people. Ethical life, according to Hegel, includes two aspects. "The objective sphere of ethics ... is substance made *concrete* by subjectivity *as infinite form*" (*Rph* 189 [§144]). By substance Hegel means human community, which is created by individuals but has its own life, its own spirit, and metaphorically speaking its own will, which Hegel refers to using the term "substantial will." Within such a community, a kind of collective decision-making takes place, which could be interpreted as collective rationality.¹¹ The other aspect of ethical life is that "[the ethical substance and its laws and powers] are not something *alien* to the subject. On the contrary, the subject bears *spiritual witness* to them as to *its own essence*, in which it has its *self-awareness* und lives as in its element, which is not distinct from itself" (*Rph* 191 [§147]). Individuals internally, i.e., either based on a feeling or subjective reflection, identify with a thus defined human community and live in it. Both of these aspects of ethical life in their mutual, dialectic relation are then the determinations of the ethical idea, which is the family, civil society, and the state. Via these institutions, the ethical idea becomes actual.

3.1 *Family*

In Hegel's view, a family is "the *immediate substantiality* of spirit," defined by "the spirit's *feeling* of its own unity, which is *love*" (*Rph* 199 [§158]). Family as a community of people linked by blood ties is united by a common spirit apparent in its habits, customs, and unwritten rules. This spirit's "substantiality" is determined by the fact that each family member finds his or her own substance, "essentiality," within this unity, and it is "immediate" because a family shares this spirit so to speak by its own nature, without its members' willing it or knowing of it. Like Kant, Hegel is convinced that family is the natural human community. At the same time, however, he also notes that being a family member goes hand in hand with a certain disposition (*Gesinnung*), which manifests itself in trusting that the interests of each family member coincide with the interests of the family as a whole.

11 For more on collective deliberation in Hegel, see Westphal (1993, 241).

Family is based on marriage, which, too, is an “immediate ethical relationship.” The goal of marriage is to secure the biological reproduction of humankind, but also to transform the external union of two partners “into a *spiritual* union, into self-conscious love” (*Rph* 201 [§161]). Hegel emphasizes that marriage requires both a “particular inclination” of both persons intending to enter it and a “free consent of the persons concerned, and in particular their consent to *constitute a single person* and to give up their natural and individual personalities within this union” (*Rph* 201 [§162]). Marriage presupposes that both partners will accept certain self-imposed limitations, but since they will acquire a new self-awareness, a “substantial self-consciousness,” they will also achieve a liberation (from their erstwhile natural personalities). The ethical aspect of marriage is, according to Hegel, given by mutual trust and creation of a true community. For a marriage to be stable, it has to be a shared project of both partners who each contribute to it according to their powers. The same then applies to children born to this union.

Hegel criticizes Kant for reducing marriage to a contractual relationship (*Rph* 106 [§75 R]; cf. MM 426–429 (§§24–27)). He does not deny that marriage has a basis in a contract but in his view, this legal aspect of marriage must be superseded by its ethical dimension. He even goes as far as to ascribe to marriage as an ethical relationship a kind of religious nature, expressed in piety and in Classical mythology even in the veneration of household gods, the Penates (*Rph* 203 [§163 R]).

A family is the ethical root of a state in the sense that like state, it strives to find balance between taking into account the wellbeing of all its members and their particular needs (*Rph* 272 [§255]). In other respects, however, it differs from a state. Hegel point to this difference in an addition to his treatise, where he says that “love is a feeling, that is, ethical life in its natural form. In the state, it is no longer present. There, one is conscious of unity as law; there, the content must be rational, and I must know it” (*Rph* 199 [§158 A]).¹²

Given the fact that in modern times, most families merely consume material resources needed for their survival and do not create them, as was the case for instance in predominantly agricultural societies, family as an institution necessarily relies on the civil society.

12 Similarly to Kant, Hegel, too, rejects a patriarchal concept of state: “Weil das Wissen die wesentliche Form des Geistes ist, wie es im Staate ist, so ist damit die Weise des patriarchalischen Staats ausgeschlossen. In diesem sind es Gefühle, Gewohnheiten oder auch Orakel und göttliche Autoritäten, wodurch das Staatsleben regiert wird” (*VPR*₉, 209).

3.2 *Civil Society*

Hegel defines a civil society as “a system of all-round interdependence” of individual persons (*Rph* 221 [§183]). This system is based on two principles. The first states that a “concrete person who, as a *particular* person, as a totality of needs and a mixture of natural necessity and arbitrariness, is his own end.” The second principle, which to some extent runs counter the first, is that “this particular person stands essentially in *relation* to other similar particulars, and their relation is such that each asserts itself and gains satisfaction through the others, and thus at the same time through the exclusive *mediation* of the form of *universality*” (*Rph* 220 [§182]).

Within such an economic system, individuals function as citizens, in the sense of *bourgeois*, who are judged by the results of their work and by their property (*Vermögen*). Hegel refers to the division of labor and its impact on society. Division of labor and attendant specialization does make work easier and facilitates increased production, but it also “makes the *dependence* and *reciprocity* of human beings in the satisfaction of their other needs complete and entirely necessary” (*Rph* 232–233 [§198]). Hegel describes the dynamic of such an economic system along similar lines as Adam Smith, stating that “*subjective selfishness* turns into a *contribution towards the satisfaction of the needs of everyone else*. By a dialectical movement, the particular is mediated by the universal so that each individual, in earning, producing, and enjoying on his own account, thereby earns and produces for the enjoyment of others” (*Rph* 233 [§199]).

Let us now examine how, according to Hegel, civil society leads to the establishment of relations of dominance and subordination, that is, relations which are, as we saw in Kant, a hallmark of a political community.

In a civil society, protection of property requires the establishment of a system of administration of justice. In other words, what is right must become law (*Rph* 241 [§211]). In Hegel's view, laws should be made “universally known.” A public legal code should contain “*simple* and universal determinations,” but also remain open to “endless further determinations” (*Rph* 247 [§216]). Hegel pays special attention to judges, whose task consists in the “*cognition* and *actualization* of right in the particular case, without the subjective feeling of *particular* interest” (*Rph* 251 [§219]). Members of a civil society have the right to stand in a court of law, but also an obligation “to *submit to a court's authority*” and accept a court's verdict (*Rph* 253 [§221]). In short, “Justice is a major factor in civil society: good laws will cause the state to flourish, and free ownership is a fundamental condition of its success” (*Rph* 259 [§229 A]). Hegel further specifies the position of an individual vis-a-vis the legal system, noting that “since I am completely involved in particularity, I have a right to demand that,

within this context, my particular welfare should also be promoted. Account should be taken of my welfare, of my particularity, and this is the task of the police and the corporation" (ibid.).

Hegel's understanding of police (*Polizei*) is broader than the contemporary one. He views police as an institution that secures the quite broadly conceived "external order" (*Rph* 260 [§231]). The diverging interests of producers and consumers may conflict, which is why it is necessary that they be "consciously regulated by an agency which stands above both sides" (*Rph* 262 [§233]). According to Hegel, police is responsible not only for law enforcement. It should also, and above all, ensure things such as "street-lighting, bridge-building, the pricing of daily necessities, and public health" (*Rph* 262 [§236 A]). In this sense, civil society is an "external state" as well as a "state of necessity" (*Rph* 221 [§183]), because its creation is driven by the need to implement the rights of individuals and to secure their wellbeing. The state and its organs, especially the courts and the police, therefore are not an end in itself. They are here for the individuals. In an addition to his treatise, Hegel further explains the difference between a state and a civil society as follows: "If the state is represented as a unity of different persons, as a unity which is merely a community (of interests), this applies only to the determination of civil society. Many modern exponents of constitutional law have been unable to offer any view of the state but this" (*Rph* 220 [§182 A]).

Even so, there exists in a civil society an authority that is immanent to it and is of an ethical nature. This authority takes the form of corporations, which are a form of self-organization practiced mainly by the estates of trade and industry. Members of a civil society can, according to their productive abilities, join various corporations. Corporations have various tasks, such as "to look after its own interests within its enclosed sphere, to admit members in accordance with their objective qualification of skill and rectitude and in numbers determined by the universal context, to protect its members against particular contingencies, and to educate others so as to make them eligible for membership" (*Rph* 270–271 [§252]).

Corporations thus not only supervise the development of a particular area of industry or trade, but also care for their members, protect them against market instability, and educate new membership candidates. A person who is a master within a corporation "is a member of an association not for occasional contingent gain, but for the *whole* range and universality of his particular livelihood." Corporation members do not need to prove to their fellows their abilities, their income, or where it comes from. They do not need to prove their status to other corporation members. A corporation member has "*his honor in his estate*" (*Rph* 271 [§§252–253]).

Alongside family, corporation is the second ethical root of a state because it provides ethical persons with an opportunity to engage in some particular general activity in addition to their private purpose. In a civil society, everyone follows their own (economic) aims and in doing so also supports the (economic) aims of other persons. Only in a corporation, however, such activity becomes a shared project of all its members. In this respect, corporation is thus analogical to a family, which, too, is a shared project of all its members.

Hegel's justification of the state culminates with his exposition on the family and corporation. So far, however, we saw more of what state is not rather than what it is. State is not a family, i.e., it is not a patriarchal state, and it is not driven by necessity. So, what is it?

3.3 *State as an Ethical Idea*

According to Hegel, state is "the actuality of the ethical Idea—the ethical spirit as substantial will, *manifest* and clear to itself, which thinks and knows itself and implements what it knows in so far as it knows it" (*Rph* 275 [§257]). The ethical idea realizes itself as a kind of metaphysical force in a state in the sense that in it, all its determinations, i.e., the unity of human community and self-consciousness of the individual, become actual. In a state, citizens decide collectively (they have a substantial will), are aware of it, and implement the decisions they adopted. According to Hegel, it is most desirable that citizens become habituated to collective deliberation, that is becomes their custom (*Sitte*) with which they can identify. Where that is the case, they need not ask in every particular case what they should do. They trust the universal collective will that a decision which was adopted is also in their interest. And vice versa, a state in its actions depends on its citizens, in particular on their self-consciousness. This is why Hegel can claim that "[the state] has its immediate existence in *custom* and its mediate existence in the *self-consciousness* of the individual" (*Rph* 275 [§257]). And moreover, the "self-consciousness [of the individual], by virtue of its disposition (*Gesinnung*), has its *substantial freedom* in the state as its essence, its end, and the product of its activity" (*ibid.*). Based on their patriotic disposition, citizens identify with the state and view it as their institution, whose members they are and in which they live. This freedom is substantive in the sense of providing the foundation for other freedoms each citizen has, such as those related to private law, economy, etc.¹³

In a sense, therefore, a state resembles family because it unites two aspects of ethical life: From an objective perspective, it is a human community that has its own spirit and will. From a subjective perspective, each individual

13 E.g. for formal freedom, which corresponds to arbitrary will (Cf. *Rph* 150 [§123]).

internally identifies with this community and views himself or herself as its member. Yet whereby in a family this identification took the form of a feeling, in a state it takes the form of political virtue, which is identified with “the willing of that thought end which has being in and for itself” (*Rph* 275 [§257 R]). In this respect, a state is a higher type of human community than a family is, because thought and knowledge are superior to a mere feeling.

In other respects, a state can be compared to a civil society. State is “the actuality of the substantial *will*, an actuality which it possesses in the particular *self-consciousness* when this has been raised to its universality; as such, it is the *rational* in and for itself” (*Rph* 275 [§258]). State as a human community has a certain collective will which in it becomes actual and which is in and of itself rational. This will is expressed in the self-consciousness of citizens, which must be cultivated (*gebildet*) from a civil society and transformed so that citizens would in their actions follow not only a particular general activity, as in a corporation, but general activity as such. This is not meant to deny the particular economic aims which people follow in a civil society as private persons. These aims are, however, to be brought in harmony and conformity with the general substantive will of the state. Hegel’s intention here is to describe the proper hierarchy of activities and goals which citizens should aim at.

Similarly, rationality in a state is embodied in the unity and interpenetration of universality and individuality ... it consists in the unity of objective freedom (i.e. of the universal substantial will) and subjective freedom (as the freedom of individual knowledge of the will in its pursuit of particular ends). And in terms of its form, it therefore consists in self-determining action in accordance with laws and principles based on *thought* and hence *universal*.

Rph 276 [§258 R]

In this respect, state is a higher type of community than a civil society, because it elevates the will of individuals to a higher level of generality than can be achieved in a civil society, a level they otherwise probably would not have known of.

Hegel points to yet another difference between a state and a civil society, when he states that in a state, “*union* as such is itself the true content and end, and the destiny of individuals is to lead a universal life” (*Rph* 276 [§258 R]). Like Aristotle, Hegel too is convinced that individuals can only be free in a state, because states create institutional conditions for their freedom conceived of as autonomy. This is why it is individuals’ “*highest duty*” (*Rph* 275 [§258]) to

belong to a state, because in that way, they can fulfil their essential determination, which is to live in a political community with fellow citizens.

4 State as a Political State

Hegel examines the issue of a constitution. Like Montesquieu, he is convinced that each nation has a constitution that is appropriate to it and reflects it, “since the state, as the spirit of a nation (*Volk*), is both the law which *permeates all relations within it* and also the customs and consciousness of the individuals who belong to it, the constitution of a specific nation will in general depend on the nature and development (*Bildung*) of its self-consciousness” (*Rph* 312 [§274 R]).

Hegel is critical of Kant’s notion that it might be possible “to give a nation a constitution *a priori*,” even if its contents were eminently rational. Such a constitution would, in Hegel’s view, remain just a product of thought (*Gedankending*) devoid of any relation to reality, that is, in this case to the citizens’ self-consciousness. Like Kant, however, Hegel advocates that reforms be introduced from above: if a state already has a constitution, any change to it should “take place only in a constitutional manner” (*Rph* 312 [§273R]). The question, however, of who should draw up the constitution remains unanswered.

Hegel distinguishes between three political powers in the state: the legislative power, the executive power, and the princely power or monarchy (*Rph* 308 [§273]).¹⁴ These three powers form a political state (*ibid.*), because only institutions of a political power can create in a state those relations of dominance and subordination which characterize a political community.¹⁵ Like Kant, Hegel too rejects Montesquieu’s idea that political powers should check each other’s authority. Hegel views their relations organically, as “determined by the *nature of the concept*” (*Rph* 290 [§269]).¹⁶ The aim of legislative power is “to determine and establish the universal,” in other words, to deal with general laws and affairs. Executive power deals with “the subsumption of *particular* spheres and individual cases under the universal,” and the power of the

14 In translating Hegel’s term “die fürstliche Gewalt,” I diverge from Nisbet who translates it as “the power of the sovereign” (*Rph* 308 [§273]). The sovereignty implied in this term is the most important but not the only aspect of the power of a monarch.

15 “With the state there enters inequality, the distinction between governing powers and the governed, officials, authorities, directories, etc.” *Enc* 237 (§539 R).

16 For more on Hegel’s exposition of an organic theory of division of political power, see Wolff (2004) and Siep (2004).

monarch is individual, being an example of “subjectivity as the ultimate decision of the will” (*Rph* 308 [§273]). Let us now briefly summarize Hegel’s conception of the individual political powers.

In Hegel’s view, the power of the monarch is the most important. This is because a monarch has sovereignty. He is critical of the notion of popular sovereignty:

Without its monarch and that articulation of the whole which is necessarily and immediately associated with monarchy, the people is a formless mass. The latter is no longer a state, and none of those determinations which are encountered only in an internally organized whole (such as sovereignty, government, courts of law, public authorities, estates, etc.) is applicable to it.

Rph 319 [§279 R]

The power of a monarch is not, however, absolute. It is limited by “the constitution and laws” (*Rph* 313 [§275]). A monarch may not act arbitrarily, “he is bound by the concrete content of the advice he receives, and if the constitution is firmly established, he often has nothing more to do than to sign his name” (*Rph* 321 [§279 A]). Ministers are those who prepare for him the “grounds for decision, relevant laws, circumstances etc.” (*Rph* 326 [§283]). A monarch qualifies for his function within a state by his origins, i.e. “by his natural birth,” not by his character (*Rph* 321 [§280]). This view should, however, be seen as Hegel’s concession to the contemporary political situation in Prussia and it is not certain where he truly expresses his own opinion.

The executive power includes the judiciary and police powers as well as the powers administered by corporations and local communities. Hegel demands a division of labor among these institutions. While acknowledging the advantages of centralization of state administration, such as took place in France under Louis XIV and his followers, he also believes it is most beneficial that “civil life ... be governed in a concrete manner from below, where it is concrete” (*Rph* 330 [§290]). Civil servants play an important role in state administration. Fully in accordance with the French model, Hegel requires that their appointment should be guided not by their origins, estate, or personal nature, but by their knowledge and proofs of ability (*Rph* 332 [§291]). He also considers the possible danger of abuse of power on the part of official bodies and their members. A safeguard against this is in his view to be found both in a “direct responsibility of their own hierarchy” and in “the legal recognition accorded to communities and corporations, for this prevents subjective arbitrariness from

interfering on its own account with the power entrusted to officials" (*Rph* 334 [§295]).

In Hegel's view, the legislative power should take the form of two houses, similarly as in Britain. The upper house would consist of large landowners, qualified for this career by their birth and not the contingency of an election. The main task of the upper chamber would be to find a balance between the interests of the monarch and those of the bourgeoisie. With the monarch, members of the upper house share their aristocratic origin. With bourgeoisie, they share their needs and rights. The upper house thus becomes "a support both of the throne and of civil society" (*Rph* 346 [§307]).

The lower house would consist of deputies of the other estates: farmers, traders, and industrialists, as well as deputies of the universal estate, that is, the civil servants. Deputies deliberate and decide on matters of universal concern, whereby the purpose of elections is to choose those individuals who have a reputation of understanding these affairs better than people who elected them. "Their position is accordingly not that of commissioned or mandated agents, especially since the purpose of their assembly is to provide a forum for live exchanges and collective deliberations in which the participants instruct and convince one another" (*Rph* 348 [§309]).

Hegel is in favor of corporative representation based on occupation and rejects democratic representation. He expresses this view as follows: "If the deputies are regarded as *representatives*, this term cannot be applied to them in an organic and rational sense unless they are *representatives* not of *individuals* as a crowd, but of one of the essential *spheres* of society, i.e. of its major interests" (*Rph* 350 [§311 R]). Deputies should be thus elected by their corporations and not in general and direct elections.

Let us now have a closer look at the relations of seniority and subordination, which are according to both Hegel and Kant constitutive of the state and political power. Hegel touches upon this subject not in sections dedicated to the political state but in his exposition on "rectitude" (*Rechtschaffenheit*) in a section on ethical life.¹⁷ Rectitude is defined as "the simple adequacy of the individual to the duties of the circumstances to which he belongs" (*Rph* 193 [§150]). Its functioning is further explained as follows: "In an ethical community, it is easy to say *what* someone must do and *what* the duties are which he has to fulfil in order to be virtuous. He must simply do what is prescribed, expressly stated, and known to him within his situation" (*Rph* 193 [§150 R]).

17 I am indebted to Professor Benno Zabel of Bonn University for bringing to my attention the importance of rectitude for understanding Hegel's conception of political power.

Rectitude can manifest itself in various spheres of life: in the family, in civil society, or in the state. If citizens' highest duty is to be member of a state, then this requirement implicitly amounts to a demand that citizens obey the institutions of political power. Hegel does not even consider any right to passive, much less active resistance against any of its component parts.¹⁸ He is, after all, convinced that most common people have no understanding of politics:

if the term 'the people' denotes a particular category of members of the state, it refers to that category of citizens *who do not know their own will*. To know what one wills, and even more, to know what the will which has being in and for itself—i.e. reason—wills, is the fruit of profound cognition and insight, and this is the very thing which 'the people' lack.

Rph 340 [§301 R]; cf. Baum 2004, 145–146

Let us now summarize our observations. Hegel's "scientific proof" of the concept of state is part of his exposition on ethical life and can be understood only from this context. Family, civil society, and state are three different types of human community, three distinct institutions each of which is guided by its own principles. Hegel's proof consists of an explanation of their constitutive principles and their mutual connections. The main strength of Hegel's proof is, in my view, in its general intention to identify in each of these institutions all their rational elements even where such features do not correspond to actual, apparent reality. Like Kant, Hegel is an idealist, but unlike Kant, he understands rationality in its relation to actuality, not a priori. The main weakness of Hegel's proof is that the consequences which follow from his analysis of the constitutive principles of the individual forms of human community (such as the family) for other forms of community (such as the state) are not further considered. In most cases, some attempts to address them appear only in the additions to the treatise. Hegel's "scientific proof" of the concept of state thus remains merely an approximate outline where much detail remains unclear and untreated. Kant's and Hegel's normative approach to the justification of state each have their own strengths and weaknesses and neither is clearly preferable to the other.

It is also apparent that Hegel interprets the notion of the political differently from Kant. Where for Kant, the political is linked mainly to hierarchic relations

18 This conclusion holds only of the *Philosophy of Right*. Investigations of transcripts of Hegel's lectures on the *Philosophy of Right* (esp. VPR₁₉), including the right of poor people to a revolt or a revolution is due to space limitations left aside (cf. Vieweg 2012, 448ff.).

(i.e., to political authority), Hegel views the notion mainly in the context of human community, i.e., along similar lines as Aristotle. Hegel does not deny that hierarchic relations (of superiority and subordination) are important, but in his view, they should be based on communal relations. All this implies that Kant and Hegel view the sphere of the political in different ways, which should be differentiated and taken into account.

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Hegel's Republican Penal Philosophy: an Attempt at a Contemporary Reconstruction

Benno Zabel

1 Introductory Remarks

Linking Hegel with the idea of republicanism and a republican penal philosophy may be viewed as a provocation. His own formulations and the interpretation and reception of his thought seem to speak a different language.¹ Numerous interpretations arise not merely, however, from the method Hegel favors in his reconstruction of the state and from the criminal and penal theory embedded in it. They also arise from the unique link between logic and “Realphilosophie.” Hegel's project of a philosophy of right articulates a demand for justification that is often misunderstood today and judged to be in conflict with freedom. In fact, this project is only comprehensible when it is seen as a logically substantiated meta-critique of accepted practices of action and judgment. Right and law, state and punishment are multidimensional concepts, and their functions must be deduced from the concrete constitution of a body politic. It is not possible to provide a comprehensive survey here of the field of problems these concepts frame.² Instead we are going to focus on sketching the internal relations between a state under the rule of law, republicanism and penal legitimation. It will have to be shown that, by shedding light on the concepts of crime and punishment in both their juridical *and* philosophical dimensions, Hegel gives expression paradigmatically not only to the significance but also to the limits of modern guarantees of freedom.

1 One need merely think of Hegel's talk of the divinity of the state or of the sanctity of law—and of the later accusation of a totalitarian thinking, or at least a thinking that is hostile towards the subject.

2 For a detailed treatment of this, see Pawlik (2012, *passim*) and Zabel (2010, 51 ff.).

2 Hegel's "Political Republicanism"

2.1 *The Problem Concerning the Appropriate Form of State and Government*

Hegel's political philosophy, including his philosophy of right, does not correspond to what we today understand by the rule of law and constitutionalism, to a culture characterized by a commitment to basic rights and the separation of powers. While we now assume a link, whether implicitly or explicitly, between democratic and republican elements of the organization of the state—that is, we take for granted a connection between a representative governing system characterized by the separation of powers and a dynamic structure of subjective rights—Hegel sees himself confronted with an entirely different problem.³ This is because the processes of upheaval, which could be observed everywhere at the end of the 18th and beginning of the 19th centuries, raise significant problems of legitimation. Especially the idea of political rule justified by classical natural law, which is difficult to translate into new institutional forms, has fallen into a state of crisis. With the appropriate theoretical framework, this crisis of legitimation ought to lead to a reliable government architecture that is framed by the rule of law.⁴ For Hegel this means not only rejecting aristocracies conceived not on the basis of law, as envisioned once again by the political Restoration, but also rejecting popular democratic conceptions of sovereignty, that is, radical forms of a populism that undermines the conception of ethical life (one need think merely of the *Grande Terreur*).

Hegel's positioning can only be understood in the context of a new semantic catalog of the forms of state and government. This concerns in particular the understanding of democracy, which transforms from being analytic and descriptive to being *normative*. In this respect, democracy ought to manage social resources in a way that is politically appropriate. But what exactly this means in the post-revolutionary processes of upheaval of his time can only be determined with difficulty. One must take into account, on the one hand, the new configuration of politics and the mobilization of the idea of participation, and on the other, the "incursion" of the civic-economic element into the sphere of the political, that is, the emergence of a de-politicized social space. The question concerning the concrete *legal and organizational form* of the general will, which this development represents, has its ground precisely

3 Cf. Lucas and Pöggeler (1986) and, for the current debate, Möllers (2008).

4 Already Immanuel Kant's theory of right aimed at such an architecture (1978 229 ff. and 309 ff.).

here.⁵ Hegel is thus fully aware of the explosive power generated by the revolutionary nature of modernity. While he is still heavily influenced by the developments in Germany following 1789/1806—with all the accompanying shifts in the (European) tectonics of power—it is especially the jurist Eduard Gans, a close companion of Hegel's, who sought to grasp with the concepts of legal philosophy the dynamics of the political developments *after* 1830. Gans would become the congenial interpreter of Hegel. This becomes especially clear in Gans's lectures *Naturrecht und Universalgeschichte* ("Natural Law and the History of Universal Law"). These lectures are additionally interesting because they show us how Hegelian concepts and semantics—of law, of politics, of state institutions—even during his lifetime were "temporalized" and further developed, and how new (progressive) horizons of interpretation were opened up. In any event, Gans's interpretations will have some influence on our own considerations (Gans 2005, 67 ff.).

Now coming back to Hegel, we may see why it was possible to interpret his plea for the constitutional monarchy and the rejection of a universal right to vote as conservatism in a pure form.⁶ Yet, with his sensitivity to the indispensable need to balance the spheres of the social, political and economic, Hegel points us to a problem that conceptions of legitimation and sovereignty also face today: namely, how a *legally binding* general will can be substantiated by the formation of particular wills through representation and the right to vote.⁷ Admittedly it also becomes apparent that Hegel wants to hold on to a strong concept of state sovereignty, which begins, however, through the liberal and individualistic tendencies of the early 19th century, to transform into a dynamically *social* concept. Thus Hegel emphasizes in § 279 of the *Philosophy of Right*:

We may also say that *internal sovereignty* lies with the people, but only if we are speaking of the whole [state] in general, in keeping with the above demonstration (see §§ 277 and 278) that sovereignty belongs to the state.

PR, 318

5 With the exception of the United States and Switzerland, Hegel has little "illustrative material." He considers both models of order, because of law with regard to elections and the organization of the state, to not be very convincing. On the special case of Haiti, cf. Buck-Morss (2009). Detailed information about the political structure of North America first reached Europe with Alexis de Tocqueville's *De La Démocratie en Amérique* from 1835/1840.

6 He does not stand alone here, however, for large portions of the emergent bourgeoisie think similarly.

7 Hegel discusses this in his text on the English reform bill (2001, 323–404), and beyond that also in the *Philosophy of Right* (1991, §§, 278, 279, 301).

Benjamin Constant, by contrast, observes the sense in which this concept is both dynamic and social: "Sovereignty exists only in a limited and relative way. The jurisdiction of this sovereignty stops where independent, individual existence begins" (2003, 31). Regardless of how we assess these developments, we need not defend in every detail the concrete, temporally bound design of Hegel's political constitution—which holds above all for his understanding of legislation and the (royal) form of government—in order to nonetheless understand the heart of his concern: Similar to modern ideas of order, it aims at forms of individual participation and the legal guarantee of freedom, which are kept as clear as possible from diverse pathologies, pure calculations of power and repression, and are thus to be taken as reliable and transparent constraints on despotism.⁸ Precisely for this reason, according to my thesis, a constitutional-republican definition of right and law, of the state constitution and punishment are imperative also for Hegel. Yet this republicanism differs just as much from contemporary revolutionary concepts (Gans tended indeed in this direction) as from democratic-republican projects of today, for instance, Skinner's or Pettit's.

2.2 *Right, Law and the State Constitution*

Society, state and constitution are for Hegel to be grasped in reference to the single individual from two sides: On the one hand, in their historical genesis they confront the individual, are given to the individual, also concretely and biographically; on the other hand, they are always part of the "individual world" in which the individual appropriates the intrinsic value of institutions and accepts them in return.

Thus in § 538 from the *Encyclopedia* one reads:

The laws express the special provisions for objective freedom. First, to the immediate agent, his independent self-will and particular interest, they are restrictions. But, secondly, they are an absolute final end and the universal work: hence they are a product of the 'functions' of the various orders which parcel themselves more and more out of the general

⁸ In this context, we should not forget that Hegel still had no concept of modern political parties as democratic organs of representation and legitimation—nor could he have had. (The factions of the first French national assembly, for instance, the Jacobins and the Girondins, were indeed the first signs of such a development, but as the subsequent political radicalization showed, were precisely no more than that.) Meanwhile, even when contemporary bodies politic can make recourse to these and other "reinforcers of the will," it is far from trivial to conceive of how the sovereign will of the people is mediated in the diverse state and political powers, in the corresponding legal acts, and to properly locate this mediation.

particularizing, and are a fruit of all the acts and private concerns of individuals. Thirdly, they are the substance of the volition of individuals—which volition is thereby free—and of their disposition: being as such exhibited as current usage.

PM, 132

And this is complemented by § 274 from the *Philosophy of Right*:

Since spirit is actual only as that which it knows itself to be, and since the state, as the spirit of a nation [*Volk*], is both the law which *permeate all relations within it* and also the customs and consciousness of the individuals who belong to it, the constitution of a specific nation will in general depend on the nature and development [*Bildung*] of its self-consciousness; it is in this self-consciousness that its subjective freedom and hence also the actuality of the constitution lie.

PR, 312

Right, law and constitution are, then, conditions of the possibility of freedom in general; at the same time, they cannot be guaranteed without the will of freedom of the individuals (long-term). Hegel spells out what this means for individuals of the modern society within his “system of the philosophy of right.”

2.3 *Freedom as an Individual Self-determined Life in a Community Bound by Law*

Hegel's concept of the individual has numerous perspectives, referring to the person, the subject and the citizen. As we will see, all three perspectives are also significant for Hegel's penal theory. A “person” designates the most general form (in the sense of his logic of essence) in which one can speak about an individual and right. It designates the way of handling various roles and holding corresponding competences. This thought is expressed by Pirmin Stekeler-Weithofer as follows:

Here we can only point to the logical foundation of our knowledge. Thus in the logic of essence Hegel wants to show that, when we assess certain assertions as problematic, we are always implicitly relying on judgments about a cultural standard. The logic of the concept reflects explicitly the historical facts still implicit in the judgments: In accordance with the logic of the concept, it is not only, for instance, knowledge accessible to us that is always relative to the respective contemporary situation of a universal cultural development. Also concepts such as reality, truth, right

and freedom each depend essentially on a recognized theoretical framework, which is in turn part of a universally recognized way of life.⁹

The point of departure of the argumentation is clarified in § 36 of the *Philosophy of Right*:

Personality contains in general the capacity for right and constitutes the concept and the (itself abstract) basis of abstract and hence *formal* right. The commandment of right is therefore: *be a person and respect others as persons*.

PR, 69

Talk of the subject indicates that social cooperation can only function in a (shifting) context of comprehensible actions, by evaluating the reasons through collective judgment. The subject articulates the particular will of the individual. By means of the inner act of determining the will and the outward-directed action, the morality of the individual emerges in general.

The concept of action thus becomes a central concept of the philosophy of right and—what is relevant for the penal philosophy—of the theory of imputation. This is because action, according to Hegel in his lectures on aesthetics, “is the clearest revelation of the individual, of his temperament as well as his aims; what a man is at bottom and in his inmost being comes into actuality only by his action, and action, because of its spiritual origin, wins its greatest clarity and definiteness in spiritual expression also, i.e. in speech alone” (VA, 219; cf. Quante 1993).

In § 106 of the *Vorlesungsnachschrift Griesheim*, Hegel further zeros in on the concept of the subject:

The subject is the existence of freedom, the ground of the existence of freedom. Right has only one true sense insofar as it is wanted by the subject. The subjectivity of the will is in this respect the existence of right, and by contrast also the right of the subjective will, that the subject will is there in what right is—that is, that my insight, my aim is an essential moment of what right is.

PR-Grie, 1197¹⁰

9 For more detail, see Stekeler-Weithofer (2008, 385 ff.). Translator’s note: my own translation of the quotation, A.S.

10 Translator’s note: All translations of the *Vorlesungsnachschrift Griesheim* are my own, A.S.

The decidedly political side of individual existence joins, in turn, the status of the citizen. As we know, the status or being of the citizen designates the interest in the common good and the accompanying power of the individual to shape politics (insofar the citizen is a voter with citizenship status). In this way, the status of the citizen incorporates the normative perspectives of the person and of the subject. But it points above all to the consciousness of being co-responsible for the forms of culture of right and law that are in each case temporary, in one's own respective life context.

In § 264 of the *Philosophy of Right* Hegel is explicit:

Individuals as a mass are themselves spiritual natures, and they therefore embody a dual moment, namely the extreme of individuality [*Einzelheit*] which knows and wills *for itself*, and the extreme of *universality* which knows and wills the substantial. They can therefore attain their right in both of these respects only in so far as they have actuality both as private and as substantial persons. In the spheres in question [i.e. family and civil society], they attain their right in the first respect directly; and in the second respect, they attain it by discovering their essential self-consciousness in [social] institutions as that *universal* aspect of their particular interests which has being in itself, and by obtaining through these institutions an occupation and activity directed towards a universal end within a corporation.

PR, 287

The individual is thus free precisely when he or she unifies the three perspectives mentioned above. Hegel justifies freedom within a normative cosmos that, on the one hand, is already defined for the individual and, on the other, can be consciously appropriated by the individual. It is not entirely clear which *opportunities for shaping politics* Hegel wanted to concede to the individual within this ethical cosmos. Perhaps we can say he granted the *institutions* of the state a credit of trust, which arose from the history of the body politic—something that Gans partially relativized and that the Young Hegelians later contested. Hegel's penal philosophy is at any rate based on a "logic of freedom" that has numerous perspectives and it defines in this framework—in *accordance with right and law*—the practices of attributing a crime to someone and the practices of just punishment.¹¹

11 Here we will not go into the debate that has been sparked especially in the neurosciences concerning the possibility or impossibility of human freedom of the will. For Hegel it is

3 Hegel's Republican Penal Philosophy

3.1 *Preliminary Remarks*

According to my thesis, Hegel's penal theory has suffered from having been, for systematic reasons, been inadequately defined both by critics and proponents. While critics denounce the “metaphysical baggage” of his theory of an absolute retribution for a deed, detached from a function (cf. Hörnle 2011), proponents are often content with the stereotypical reference to the underlying principle of freedom (cf. Wolf 2003, 199 ff.). Here punishment is understood merely one-dimensionally. Yet Hegel's penal philosophy—which in this respect is “further” than merely the juridical penal theory—is above all the signature of a constitutional-republican theory of justice. For this reason it must also be spelled out in the institutions and practices of the state under the rule of law, that is, in the context of abstract right, of morality and civil society (ethical life). And for this reason one should reveal the structural moments of such a republicanism within the concept of punishment.

3.2 *The Logical and Normative Reference Point of Punishment: Crime as a Violation of the Accepted Order*

Hegel's semantics of crime is based on the (performative) self-contradiction that emerges in the deed. In the free criminal act, the “perpetrator” violates the individual person, and at the same time disregards what is right as the fundamental condition of collective action and judgment. That is precisely what Hegel means when he designates the crime in logical categories as a “negative-infinite judgment.”

In § 95 of the *Philosophy of Right*, Hegel makes clear what this comes down to:

The initial use of coercion, as force employed by a free agent in such a way as to infringe the existence [*Dasein*] of freedom in its *concrete* sense—i.e. to infringe right as right—is *crime* ... whereby not only the particular ... is negated, but also the universal and infinite element in the predicate “mine” i.e. my capacity for rights. This does not involve the mediation of my opinion (as it does in deception; see § 88), but runs counter to it. This is the sphere of *penal law*.

PR, 121–122

always a matter of a metaphysical understanding of freedom, i.e. an understanding that is to be grasped in thought.

In this passage the main thrust is clear: the violation of law through the first coercion of the criminal is a violation of freedom, that is, freedom seen in accordance with its abstract shape. When Hegel nonetheless speaks here of the sphere of penal law (adopting here the concept from the tradition of common law), then he is aware that it can only concern an aspect of a theory of criminal law, namely, the logic of reciprocal coercion (violence), which is motivated by a violation of freedom. For this reason, the moral subject and the accused citizen come just as little into view as does the framework for legitimation of the state power to punish.

It is also in this sense that Hegel formulates the following thought in the explanatory note § 94 in the *Vorlesungsnachschrift Griesheim*:

The right is violated as right. This violation and the way it is to be cancelled now needs to be examined more closely. This, then, is the theory of punishment. Here there is not yet talk of punishment in the form of punishment. What is wrong is cancelled, which takes place in the state in a legal, orderly manner by means of the courts; then the cancelling of the violation is called punishment. Here, where we are not yet taking the state into consideration, the cancelling is abstract, to be considered generally.

PR-Grie, 1180

With a view to the elements of coercion, Gans adds that, in seeing abstract right as the right of the second coercion, one grasps right only in light of the characteristic of wrong, in light of coercing, that is, one wants to recognize right in its negation. "While right as right is violated in the first coercion," writes Gans, "the first violation is already void, for the crime exists in a natural but not in an ethical respect" (2005, 107).¹² It is also clear from what is said, however, that in a legal order based on freedom the crime cannot be defined merely as coercion. Especially in the section on morality, Hegel calls attention to the fact that the *crime must necessarily be an action* if it is to be classified as a *mis-deed*. The term morality, which is unusual for us in the context of legal questions, indicates here that the justification of guilt and punishment must come down to the individual, free and conscious decision (in the form of a resolution, intent etc.) against right and law. It is thus always a matter of a criminal deed. Details of the argumentation must be left out of consideration for the present case (cf. PR §§ 115 ff.).

¹² Translator's note: my own translation, A.S.

3.3 *The Conceptual Dimensions of Punishment as Legal Punishment*

Hegel's conception of punishment knows three different intertwined dimensions: the dimension of the (formal) recognition of status, the dimension of the institutionalized procedure and the dimension of social communication. On the one hand, the three dimensions of the concept of punishment point to the logical fundamental structure of the Hegelian conception of justice and the state under the rule of law, as it is developed in particular in §§ 5–7 of the philosophy of right (Vieweg 2012, 57 ff.). On the other hand, they ought to bring to our attention that, depending on the context and epistemological interest, talk about punishment emphasizes different practical functions with regard to freedom, thereby outlining in the first place the orientation that right achieves—an insight that is often missed in the current debate.

3.3.1 Punishment as a Recognition of Status

Punishment in the most abstract sense points firstly to the normative basis of every legal order, namely, of having available an effective power of sanction. In this respect, Hegel speaks in the *Philosophy of Right* of abstract right also as the “right to use force” (*Zwangsrecht*, § 94). In contrast to Hobbes, however, Hegel insists that a necessary condition of each reaction to wrong—in the sense of government force—is that the criminal as a free person recognizes the reaction as legal. At the same time, with the calculation of the counter-coercion, the status of the victim as a member of the legal community is also brought to bear. The punishment presupposes the “normative responsiveness” of the criminal. This means that the person is defined in his or her double position: in the universal sense as a fellow bearer of the legal order and in the particular sense with regard to having freely decided to act against the law. In both constellations, the person deserves, for the sake of law, unconditional respect.

On this point, one reads in the explanatory note § 99 of the *Vorlesungsnachschrift Griesheim* the following:

Right is the existence of the will. Here we have two worlds, the one will being the universal will ... , the other will the particular will of the criminal, who also has existence; he is also will, is free. These are the two sides, according to which right ought to take place ... It is the honor that befalls the human: that in his most unfree deed his freedom is to be respected, even existence is to be granted to his freedom. The first is thus right against his will; the second is right according to his will.

This normative responsiveness also principally still holds when the subject rebels against the legal order as a whole in a political act. In this political act of resistance, the individual attempts, in Hegel's eyes, to destroy the common normative basis and to place an abstract principle of justice in its place. (Questions of the ground of a decision, of conscience or concrete conviction play no role here.) The following two passages show how Hegel, from the link between the logic of freedom and the logic of coercion, deduces the principle of the retribution for a deed.

This is how he formulates it in § 99 of the *Philosophy of Right*:

Thus, an injury to the latter as an existent will is the cancellation [*Aufheben*] of the crime, *which would otherwise be regarded as valid*, and the restoration of right.

PR, 124

And he continues in § 100 of the *Philosophy of Right*:

The injury [*Verletzung*] which is inflicted on the criminal is not only just *in itself* (and since it is just, it is at the same time his will as it is *in itself*, existence [*Dasein*] of his freedom, *his right*); it is also a *right for the criminal himself*, that is, a right *posited* in his *existent* will, in his action. For it is implicit in his action, as that of a *rational* being, that it is universal in character, and that, by performing it, he has set up a law which he has recognized for himself in his action, and under which he may therefore be subsumed as under *his right*.

PR, 126¹³

3.3.2 Punishment and Institutionalized Procedures

Punishment designates for Hegel not only the universal form of preserving freedom—that is, in logical categories, the negation of the annihilation of the negative-infinite judgment—and in this respect the cancellation of the categorical contradiction. Equally clear for Hegel is that this manifestation of the violating act can only take place in the context of an institutional process, thus with help from juridical procedures (Zabel 2007). Punishment in the comprehensive sense is conceivable only as an institution of the state whose power is likewise limited by the separation of powers, that is, conceivable only as a function of the administration of justice. Implementing the claim to punishment

13 Hegel's different arguments are analyzed by Seelmann (1995).

is legitimate, then, when the coercion that cancels the wrong ensues on a universally recognized basis, that is, in the application of the relevant criminal laws. The law-like nature of attributing deeds and the coercion of punishment is what makes it possible to see there in the first place an act of “human-made” justice.

Thus Hegel assumes, differently from conceptions based on the critique of power following Foucault,¹⁴ that the universal law and the juridical procedures arising therein represent the most reliable instruments to protect the individual from administrative and social despotism. Law and juridical procedures are *strategies for neutralizing despotism*. That Hegel does not see in this designation a license for every kind of repressive law and government intervention, that right and law depict rather the cultural consciousness of a society and are in this sense to be brought to bear, is shown in particular by §§ 210–212 of the *Philosophy of Right*, where one can read the following:

The objective actuality of right consists partly in its being present to the consciousness and being in some way *known*, and partly in its possessing the power of actuality, in having *validity* and hence also in becoming *known as universally valid*.

PR, § 210, 240

He continues in § 211:

When what is right *in itself is posited* in its objective existence [*Dasein*—i.e. determined by thought for consciousness and *known* [*bekannt*] as what is right and valid—it becomes law.

PR, 241

The state will (or at least ought to) act with this aspiration when it understands itself as a state under the rule of law, but the state under the rule of law and its conception of the universal may not be classified in an ideal space of right. For Hegel, the state under the rule of law exists only in time and in the shape of institutions made by humans. The state under the rule of law is changeable and prone to error. For this reason, he makes the following point in § 212 of the *Philosophy of Right*:

¹⁴ Foucault (2015) and, in connection, Menke (2015).

Since being posited constitutes the aspect, of existence [*Dasein*] in which the contingency of self-will and of other particular factors may also intervene, what is law may differ in content from what is right in itself.

PR, 243

In §§ 219 ff. of the *Philosophy of Right*, Hegel spells out the thought of the institutional, procedurally supported (penal) administration of justice. We will limit ourselves to a few formulations, which nonetheless make the main thrust of the legal philosophical program especially clear. In § 220 of the *Philosophy of Right*, he first makes the following point:

When the right against crime takes the form of *revenge* (see § 102), it is merely right *in itself*, not in a form that is lawful [*Rechters*], i.e. it is not just [*gerecht*] in its existence [*Existenz*]. Instead of the injured party, the injured *universal* now makes its appearance, and it has its distinctive actuality in the court of law. It takes over the prosecution and penalization of crime, and these thereby cease to be the merely *subjective* and contingent retribution of revenge and are transformed into the genuine reconciliation of right with itself, i.e. into *punishment*.

PR, 252

We can explain this thought as follows: In the universal, institutionalized legal form, the demand for punishment finds its reflected shape. Shortly afterwards, in § 221 one reads the following:

A member of civil society has the *right to stand in a court of law* and also the *duty to submit to the court's authority*

PR, 253

And in § 222, Hegel directs our view to a central point of the procedure:

In the courts, right takes on the determination that it must be *capable of proof*.

PR, 253

These statements from §§ 221 and 222 of the *Philosophy of Right* show us that Hegel saw not only the potential but also the limits to shaping one's freedom within law—something that only a few philosophers (not merely of his time) have seen. Right delivers a *universally applicable form* for resolving social conflicts (if also not the only form, as Hegel himself remarks). Without a doubt it

is this form that subjugates the individual to the power of the state. In this respect, the practices of punishment are always repressive. But Hegel insists that the practices of punishment, like right in general (see §§ 201 ff. of the *Philosophy of Right*), must be oriented to the imperative of averting despotism, and they may not deny to the individual his or her status as a subject and citizen. Criminal law mitigates state interests of power. In this sense, the court—and nowhere else—provides the framework within which juristic truth, namely, the accusation of guilt, is produced (or precisely ruled out). The production of truth and guilt, which reflects the way law is oriented to evidence, is at the same time committed to a certain mode of knowledge. The judiciary must prove that a deed is attributable to the individual, and in such a way that the essence of the subject is not thereby violated. Today we call this human dignity. In § 224 of the *Philosophy of Right*, this argument is complemented as follows:

The rights of the subjective consciousness include not only that of making the laws publicly known (see § 215), but also the possibility of knowing [zu kennen] how the law is *actualized* in particular cases, i.e. of knowing the course of the external proceedings, legal arguments [*Rechtsgründe*], and so forth—the *publicity of the administration of justice*; for the course of law is in itself an occurrence of universal validity, and although the particular content of the case may be of interest only to the parties themselves, its universal content (i.e. the right within it and the decision on this right) is of interest to everyone.

PR, 254

The significance Hegel attributes to the juridical side of the philosophical justification of punishment is indeed remarkable. The court becomes the place where interests are settled and at the same time where legal freedom is again brought to bear. The court in the shape of a jury trial designates the legal certainty that is also spatially identifiable. Punishment exists only in the recognized institutions of the state. While Hegel wants to keep right free from all political questions (here Hegel is conservative in the truest sense of the word), we can see how Gans attempts to politically flip Hegel's concept of trial by jury (and other concepts), whereby participation by laypeople ought to help impede authoritarian criminal prosecution and opportunistic justice. In this difference between Hegel and Gans, between juridical-ethical "autonomy" and the politicization of right, a horizon of problems has become visible that has accompanied the development of right and the administration of justice up to the present day.

3.3.3 Punishment as a Form of Communication

For Hegel, already on the basis of the logic of right, punishment can be considered only as retaliation (*Wiedervergeltung*), that is, as (symbolic) restoration of the order of freedom. Hegel's idea of retaliation thus rests upon an argument which is drawn from legal principles and which is to be validated by the institutions of the state under the rule of law. But the concept and function of punishment are not exhausted there. Insofar as the penal procedure becomes a visible part of society, one can see the importance of social-cultural and psychologically justified objectives, for instance, of the general prevention of crime and betterment of the individual. In this respect, punishment becomes visible in its modalities, in its concrete quality and quantity—one need merely think of prison sentences or fines. Punishment is at the same time, then, a *multi-dimensional medium of communication*. In the external and thus also temporal legal culture of society, the sanctioning practices of the state can, on the one hand, respond to the person with his or her characteristics, motives and interests, and to the concrete circumstances of the deed. On the other hand, these practices can also articulate the fears and need for security of the victims and members of society. Hegel emphasizes this dynamic moment of punishment in numerous passages. Worth mentioning for a start is the central formulation in § 218 from the *Philosophy of Right*:

This gives rise to the viewpoint that an action may be a *danger* to society. On the one hand, this increases the magnitude of the crime; but on the other, the power of society has now become sure of itself, and this reduces the external *importance* of the injury and so leads to greater leniency in its punishment.... A penal code is therefore primarily a product of its time and of the current condition of civil society.

PR, 251

This formulation is complemented by the explanatory note § 99 in the *Vorlesungsnachschrift Griesheim*:

It is connected to punishment that others are thereby deterred from crime, that punishment is thus a means to prevent crime; this prompts the theory of deterrence. In addition, the human can change his will, improve himself, which is an important fact that evokes the theory of improvement. Both are important but additional determinations, which appear with the concrete individual and which can have an influence on the quality of the punishment ... Deterrence and improvement are also

important objectives and one can ask what the improvement of the perpetrator, the security of society demands.

PR-Grie, 1187¹⁵

This practice of punishment is made possible by the person who assumes the role of the judge. The judge must resolve problems with his or her professionalism in legal matters. This action entails, as Hegel clearly sees, a special competence, for the judge must link the empirical facts (of the violation etc.), the interests of society and the normative demands of the law with one another. In other words, the judge is, in his or her person, the guarantor of justice in the single case. Hegel reveals that the judge as person as a dual nature. On the one hand, the judge is part of the form of law insofar as he or she is part of civil society. On the other hand, the judge must stand “above the things” of civil society. This finds expression especially in the judge’s role as a public official, as a servant of the state. A public official has the task of binding in the state what is truly particular to the universal (PR, §§ 303, 304). With the judge in mind, Hegel writes in § 226 of the *Philosophy of Right* that, in addition to the supervision of the whole course of inquiry, there is

the second aspect of legal judgement (see § 225), are the proper task of the professional judge. Since he is the organ of the law, the case must be prepared for him to enable it to be subsumed [under the law in question]; that is, it must be raised out of its apparent empirical character to become a recognized fact of a universal kind.

PR, 255

In these formulations we can see how Hegel, by means of the (logical) form of law, brings to bear the normativity, the historicity, the ever-changing social conditions, but also the professionalism of the essential actors. This idea of a culture of punishment is in equal measure constitutional-republican and political. It is constitutional-republican because it insists upon the demand for a *comprehensive* granting of rights. Thus Hegel can respect the rights of the victim (of society) and the rights of the perpetrator, but above all he can minimize the indignities that go beyond the demand of punishment.¹⁶ It is

15 Hegel thereby essentially circumvents the traditional animosity between penal theories that are oriented to being absolute/retributive and those that are relative/aim-oriented.

16 The question concerning the humiliation of victims (which is to be avoided) and especially of the accused/the perpetrators in the penal procedure—from a Hegelian but also from today’s perspective—is in need of closer analysis. Here merely the thrust of the argument should be made visible.

political because it, in contrast to contemporary liberal conceptions such as Pettit's (2015) or Skinner's (2009), does not conceive of this granting of rights (exclusively) from the perspective of the individual, but rather situates it in the accepted contexts of community of action and judgment—Hegel speaks here of ethical life (*Sittlichkeit*).¹⁷

4 Summary

Hegel's concept of punishment is metaphysical insofar as it adheres to the transcendental framework of freedom of the state's power to sanction. Punishment as legal punishment always already refers to the institutional coordination system of a collective constitution, with its laws, procedures and separation of powers. In this respect, the Hegelian penal philosophy can be called constitutional-republican—a republicanism that obviously differs from the liberal concepts of Skinner and Pettit. Punishment necessarily aims at preserving freedom or restoring freedom. Meanwhile, Hegel “organizes” his concept of order and punishment on the basis of a speculative logic that intends to bring to bear the rational essence of actual relationships of life and law—in this sense, Hegel is conservative. With Eduard Gans we can see (which could be sketched here in only a few passages) how directly “revolutionary” shifts in concepts and meanings can be mobilized from Hegel's system. However, Hegel's “speculative substructure” subsequently, bit by bit, lost its relevance, until it was eventually replaced by Marx with a new “scientific method” and a corresponding philosophy of history. It is hardly surprising that Hegel's penal philosophy too has been sucked into this undertow. The question of freedom is increasingly spelled out with an individualistic vocabulary and in a positive-legal grammar. Law and punishment thus stand, however, in danger of becoming arbitrary instruments for the sake of disciplining and domination. For this reason the question of legal philosophy concerning how the relation between autonomy and authority, between subjectivity and the power of sanctioning is to be balanced, is more relevant today than ever.

Translated from the German by Aaron Shoichet

17 In the present case, we will not go into the significance of the Hegelian penal theory as a “turning point” in morality, as pointing ahead to the necessity of conceptual reflection (not the least in the spheres of ethical life). This is merely to be noted here.

Abbreviations

- PR Hegel G.W.F. 1991. *Elements of the Philosophy of Right*. Translated by H.B. Nisbet. Cambridge, UK, Cambridge University Press.
- PR-Grie Hegel, G.W.F. 2015. *Vorlesungen über die Philosophie des Rechts*. Nachschrift Griesheim, GW Bd. 26.3. Hamburg, Felix Meiner Verlag.
- PM Hegel, G.W.F. 2008. *Philosophy of Mind*. Translated from the Encyclopedia of the Philosophical Sciences with Five Introductory Essays by William Wallace. New York, NY, Cosimo Inc.

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History as the Progress in the (Un)Consciousness of Freedom?

Tereza Matějčková

Probably the dissolution of the anthropocentric point of view, which for such a long time considered man to be at the center of the universe but which has been fading away for centuries, has finally arrived at the 'I' itself, for the belief that the most important thing about experience is the experiencing, or of action the doing, is beginning to strike most people as naive.

ROBERT MUSIL, *The Man Without Qualities*



1 Introduction

An emphasis on knowledge is only one, albeit not the most characteristic, trait of the Enlightenment. Audacity, an affective or rather volitional feature of man now strongly emphasized, is another central feature. To be enlightened means more than the ability to think for oneself: It is to *act* in accordance with one's thought, even to have the desire—Hegel speaks of a “passion”—to act and take responsibility for the consequences of one's deeds. Kant captures this two-sided quality of Enlightenment, the epistemological and volitional, in his motto *sapere aude* (1991, 17). Hegel formulates this destabilizing character of thought in bolder terms:

Through thinking, the positive state of affairs was deprived of its power. State constitutions became casualties of thought; religion was attacked by thought; firm religious representations, once held to be valid unconditionally on the basis of revelation, were undermined and the old faith was toppled in the minds of many.

Enc, § 19, 50

This audacity, even a willingness to destroy, is not external to knowledge but is its internal dimension. In this sense, a new form of individual freedom is both a condition and a consequence of this audacity. Existing social and political structures are systematically weakened by the exercise of rationality. This liberation is the source of a new form of freedom and responsibility—freeing oneself from self-incurred tutelage.

The link Hegel draws between thought and freedom, “Whoever has not thought himself, is not free,” is witness to the fact that his conception, too, is firmly entrenched in the Enlightenment tradition of thought (*R*, § 5, 51, cf. Vieweg 2012, 53, 61). Despite similarities between Kant and Hegel’s conceptions of Enlightenment freedom, Hegel offers a different interpretation. To understand the relation of the respective thinkers, I first will comment on the chapter “Reason” in the *Phenomenology of Spirit* and then will place Hegel’s conception into the context of his philosophy of history, this philosophy being understood as a narrative of evolving social infrastructure.

Eventually, I will argue that it is Hegel’s emphasis on the institutionally guaranteed universal recognition in the modern state that profoundly transforms our conception of both freedom and individuality: Institutions, not only state institutions but lived norms and our language, exert power over our life long before we learn to act as individuals. These institutions, which Jean-François Kervégan aptly calls the “syntax of objective spirit” (2015, 366), first delimit what it means to be a subject and to be free. The Hegelian emphasis on institutionalization re-interprets the Kantian conception of freedom—it even in a way sidesteps the subject—but it is precisely therefore that I consider Hegel’s conception of freedom distinctly modern.

2 Freedom as Self-Limitation of Reason

It is well known that the project of Enlightenment aims not primarily at enlarging the quantity of knowledge as at limiting the scope of man’s alleged ability to know. Man is defined by his self-reflexivity, and thus, only as thinking does he live up to his freedom. Of course, this self-thinking does not invite for arbitrariness; instead, it is immediately integrated into the general structure of the categorical imperative. Only if the given intention fits into this “infrastructure of freedom,” does it qualify as free. Self-reflexivity, thus, is the ability to place oneself into the structure of the free noumenal world, while the unfree human being persists on the stage of the physical world dominated by the structure of causal laws.

Kant immediately emphasizes the limitations of this conception. First, self-reflexivity itself is a problem. In fact, due to its paradoxical structure, it is the gravest problem man faces. As beings endowed with reason, we have the need, even the duty, to give reasons for our acts, and at the same time, *as rational*, we confront the inability to fulfil this task satisfactorily. As to the most crucial questions of our lives, the very ground of our self-determination, we find ourselves groundless.¹

This brings us to a simple distinction between reason and understanding. In contrast to understanding, reason is self-reflective and, thus, reflects on the profound deficiency in its ability to sufficiently ground knowledge. Just as the Greek “know thyself,” the Stoic-Kantian “dare to know” challenges us to gain insight into our limits, this self-limitation being identical with self-reflexivity. As rational beings, we first are obliged to give reasons, while also being conscious of the inability to give *definitive* reasons, precisely *because* we are rational.

In view of his emphasis on the constitution of a rational and therefore ethical community, Kant shows that this paradox is not essentially an epistemological problem. The insight into one's shortcomings calls for a new type of virtue—for respect and toleration of others. One's own deficiency shall be the basis for the toleration of the other's attitude. This point is well expressed in Moses Mendelssohn's remark in a letter addressed to Kant:

Those who have themselves experienced, how difficult it is to find truth and to be convinced that one has indeed found it, tend to be tolerant towards those who think differently.

AA 10, 116, my translation

With this insight into the self-reflexive nature of reason, truth becomes less dramatic. In the absence of the knowledge of God and godly things, the value of truth shrinks, and thus man finds himself not only in the process of freeing himself from self-incurred tutelage but also from the suffocating claims of absolute truths. The relativity that goes hand in hand with reason's self-reflexivity translates the past drama of truth into a modern and prosaic sequence of more or less well-grounded but never absolutely convincing attitudes. This relativity is the birthplace of modern freedom because only in a realm in which man can, in the absence of an absolute binding truth, dare to think differently and to be

¹ For a thorough presentation of the consequence of the self-reflexivity of reason, especially in view of the social concept of tolerance, see Ulrichs (2016). An inspiring analysis of the Enlightenment insight into the finitude of reason is found in Forst (2017, 630–656).

different, to *think oneself*, is freedom an option *generally* shared and therefore “objective,” as I elaborate in subsequent sections of this article.

As to the insight into self-reflexivity and in the context of the appeal on toleration, I suggest interpreting the categorical imperative as an ideal norm having the ability to sidestep this relativity and questioning existing norms more radically. In this sense, the categorical imperative is a standard, for Kant the last standard, against which competing positions can be measured. Though not absolute, it is categorical nonetheless.

3 Freedom as a Possession of the World?

Hegel repeats throughout his work that real freedom is not merely a personal effort of self-determination but that it needs to become “objective.” In my understanding, this means that it needs to become institutionalized. Unless this subjective effort is not part of an objectively free situation, the freedom of the singular free act will be thwarted. From Hegel’s perspective, I am free as far as my freedom is continued by others and as far as it lives from the freedom of others. In a sense, freedom is dialogical, and a purely subjective freedom would be like a dialog without a partner. Thus, although Hegel, too, takes the insight into the subjective freedom, “the free infinite personality” (*R*, 13) to be the axis of the modern world, he maintains that consummate freedom is a dialogic form of freedom; it is being with oneself in the other.

With this insight, Kant’s conception of Enlightenment freedom is profoundly transformed: Freedom is not an attribute someone possesses but something that appears in the form of a concrete act in a public space. Shifting the essence of freedom from intention to action, Hegel focuses on the conditions and consequences of a free act. Most importantly, he introduces reflexivity into his conception of a common world as the very condition of the ability to act freely. The reflexivity of the subject meets a peculiar reflexivity on the part of the object. In this interpretation, the enlightened person not only refuses to seek sources of normativity in a godly realm but also ceases to look for normativity in the realm of the noumenal; thus even the categorical imperative is “dethroned.”

Instead, normativity is taken to stem from the activity of individuals in the plural, from the “I that is We and We that is I” (*PS*, 110) and thus from the reflexive “We” or from the “I” as part of a “We.” Now, the source of normativity is social and, thus, at this stage, normativity is no longer an outer but an integral part of social dynamic. Hegel expresses this point in a well-known image with which he concludes *Phenomenology*: Without the individual spirits, without

the human “We” encircling the absolute spirit’s throne, i.e. the seat of normativity, the “monarch” would be “lifeless and alone” (PS, 493).

In my reading, Hegel goes as far as presenting a topsy-turvy world at the very end of the *Phenomenology of Spirit*: Knowledge is absolute not insofar as the consciousness of this form of knowledge is self-reflexive but insofar as it realizes that its own thinking has been conditioned by a plurality of other spirits or subjects. If this interpretation is correct, Hegel presents in these closing passages an inspiring reinterpretation of the Aristotelian *noesis noeseos* that recurs in the closing parts of his *Encyclopedia of the Philosophical Sciences in Basic Outline*. Thus, Hegel takes up the motive of thinking that is thinking itself, but the subject does not have his own thinking as its object; instead, the subject reflects on the thinking embodied in a social collective mindedness and shared norms. As I read it, the consciousness is considered absolute as far as it understands the principle of its own being, thinking, and acting, and this principle is the social fabric of which the consciousness is a part. No longer is a “solitary” monarch sovereign, in modern times; a plurality of subjects reigns. In other words, the consciousness has realized that concepts such as God, eternity, and laws—concepts traditionally considered beyond human consciousness—are socially negotiated, and now it sees that one’s own reflexive activity flows into the objective world, this insight into the social construction of reality being an insight characteristic of the modern world.

For me, key to understanding this transfer from an otherworldly normativity to an inner-worldly normative dynamic is the chapter on “Reason” in Hegel’s *Phenomenology*. Here, Hegel explicitly comments on both the Enlightenment conception of reason and the world as well. I consider this link between Enlightenment reason and world seminal: Far from being world-fleeing, the consciousness has overcome its negative attitude toward the world and now claims the present world to be its “home.” In this sense, Hegel underscores the fact that the subjective idealists, i.e. his predecessors such as Kant or Fichte, are radically this-worldly, although they still tend to formulate an idea of a noumenal sphere of freedom or postulate the existence of an other-worldly God. But more important than this is the fact that now the categories of the mind themselves are constitutive of the present empirical world:

While at first it (i.e. consciousness) is only dimly aware of its presence in the actual world, or only knows quite simply that this world is its own, it strides forward in this belief to a general appropriation of its own assured possessions, and plants the symbol of its sovereignty on every height and in every depth.

PS, 146

Here we see how intimately Hegel links Enlightenment reason with worldly power. The fact that, at least in certain passages, Hegel obviously has Kant in mind is irritating, especially when considering that he does not contemplate the most characteristic traits of Kant's philosophy. Instead, he focuses on the phenomenon of organism and formulates a strange alliance between first the failure to understand the organism, second phrenology and third a Kantian misconception of action.

But why does the problem of the organism's self-direction attract more of Hegel's attention than Kant's conception of freedom in the *Critique of Practical Reason*? For Hegel, Kant himself sees the need to test his conception of freedom in the empirical, natural world. And if it is true that modern German Idealism aims at an "appropriation of the empirical world" (PS, 146), this descent from the noumenal realm into the real world is seminal. But as is well known, according to Hegel, Kant fails at this task. In fact, the organism, this "particular kind of object" (PS, 154), is a key witness to Kant's failure to adequately capture freedom as situated in corporality. For Kant, the organism only *appears* to have a *telos*:

Hence it follows that it is simply a consequence flowing from the particular character of our understanding that we should represent products of nature as possible according to a different type of causality from that of the physical laws of matter, that is, as only possible according to ends and final causes.

CJ, 236

Thus, in a way, it is the human mind, nature's "possessor," that prescribes laws to the organism. Contrary to this, according to Hegel, in the organism we witness an entity that produces its own laws, that maintains a homeostatic relation to its environment, and that even attests a certain form of self-determination Hegel calls "feeling of self" (PS, 157). Although for Kant, causality and freedom represent two different levels of reality, Hegel claims this dualism to be false: Of course, the organism, just as man, is subjected to causal laws but this does not thwart its freedom. In fact, freedom is the ability to disrupt the causal chain, to take up the cause and transform it. Therefore, organisms of even the same kind are never fully predictable. Because they are alive, they have the capacity of lending new meaning to a cause and to transform it by integrating it into a new type of life-context: The organism is free because it is part of a causal chain, not despite of this.

For Hegel, it is symptomatic that Kant, a key representing figure of subjective idealism, places the meaning of the organism into a rationality that is

external to the organism itself. With this, in Hegel's reading, Kant formulates a dualism of rational subjectivity on the one hand and matter organized by causality and therefore lacking freedom on the other. Far from overcoming the dualistic alternative of causality and teleology, passivity and spontaneity, Kant only restated and deepened the invincible duality.

4 **Scientific Forms of Enlightenment Liberation: the Soul Becomes Skull**

Scientists initiating phrenology attempted to overcome this dualism. It is in this context that phrenologists argue that the skull-bone *already* is the carrier of meaning, that meaning then is nothing hidden, nothing in need of further interpretation, certainly not in need of a retreat into a noumenal realm. Instead, the body stands for itself and it only needs to be observed (and measured) rather than interpreted.

In the context of the Enlightenment emphasis on reason and freedom, it is peculiar that phrenology was celebrated as substantially modern because it purportedly bestowed a new type of freedom on man. Despite the fact that today we understand it as a pseudo-science predetermining people to a certain destiny based on their type of skull, thinkers and reformers in the wake of the Enlightenment hailed it as a means of freeing man from such *external* determining forces as social hierarchy and traditional (and therefore metaphysically) imbued conceptions of value and meaning. Instead, phrenologists held that one's innate mental powers—not birthright or class or the blessing of a religious institution—determined one's worth.²

Hegel is well-known for his fierce criticism of phrenology presented in the *Phenomenology of Spirit*. Instead of focusing on his criticism, I want to call attention to why he treats phrenology to such a length in a part that he considers central for understanding consciousness. Certainly, the strange proximity of a treatment of Kantian conception of organism and the science of phrenology calls for explanation. Neither the Kantian conception of organism nor his understanding of freedom reminds us of the project of a naturalization of the

² Walt Whitman's poem *By Blue Ontario's Shore* illustrates this point, mentioning key American values, freedom, friendship, and pride, along with phrenology and physiology: "Who are you indeed who would talk or sing to America? Have you studied out the land, its idioms and men? Have you learn'd the physiology, phrenology, politics, geography, pride, freedom, friendship of the land? its substratums and objects?" (1980, 201).

human soul, a project Franz Joseph Gall opposes to Kant's "speculations" (Gall 1979, 58).

How then are we to understand this peculiar juxtaposition in the *Phenomenology*? I suggest that in a way Hegel does side with the phrenologist against Kant, or expressed more subtly: The phrenologists undertook to answer a problem at which Kant failed. Of course, in Hegel's eyes, the phrenologists failed even more radically because their conclusion—"the being of Spirit is a bone" (PS, 208)—is blatantly absurd. Nonetheless, the type of failure is provocative, even inspiring. In Hegel's reading, Kant reinstates the duality of thought and organism, of freedom and determination, of inner and outer. Contrary to this, the phrenologist formulates an identity, an identity that recalls Hegel's speculative sentence: The inner is the outer. Hegel eventually refuses the identity proposed by phrenologists, but his refusal is more nuanced than commonly assumed because as to a decisive point, Hegel fully agrees: The "skull-bone does have in general the significance of being the immediate actuality of Spirit."³ But he immediately adds: "the many-sidedness of Spirit gives its existence a corresponding variety of meanings" (PS, 200).

How then are we to relate the outer, observable nature to thought, meaning and value, to the realm of the "meta-physical"? Rather than reinterpreting the metaphysical distinction of soul versus matter into an idealistic "as if" perspective versus a "realistic" conception of matter as subdued to causal laws, Hegel in a way opts for Gall's identification: The soul becomes body.

The outer is thus, *in the first place, the same content* as the inner is. What is internal is also on hand externally and vice versa. The appearance shows nothing that is not in the essence and there is nothing in the essence that is not manifested.

Enc, § 139, 207

In other words, nature, the outer, is its own "meta-physician," or there is no way to go behind the surface phenomena and remain true to freedom or to the nature of spirit. This is a decisive insight that we encounter on very different levels of Hegel's thought, even on the level that is the furthest removed from physical reality: The consummate absolute religion is Christianity precisely because, here, the absolute became flesh, thus, it turned into a phenomenon that

³ Hegel recurs to a skull again in a religious and philosophical context at the very climax of the *Phenomenology*: For Hegel, the *Phenomenology* as a whole is a Calvary (Schädelstätte) of the human spirit; once again we meet the association of the highest revelation of human spirit with the concept of the skull.

lends itself to human senses. And as Hegel emphasizes in a biblical allusion: “Thus the lowest is at the same time the highest; the revealed which has come forth wholly on the *surface* is precisely therein the most profound” (*PS*, 406).

Key to understanding Hegel’s vigorous critique of phrenology and his vibrant interest in it, is his search for an appropriate evaluation of the status of the outer. A correct understanding of the outer is key to a correct understanding of human spirituality. Again, this emphasis on the outer takes its strength from the idealist and romantic emphasis on subjectivity Hegel chides in the philosophy of his day. Emblematic for this retreat into subjectivity is Kant’s insistence on intention as the truth and criterion of the act.

Even if, by a special disfavor of fortune or by the niggardly provision of a stepmotherly nature, this will should wholly lack the capacity to carry out its purpose—if with its greatest efforts it should yet achieve nothing and only the good will were left...—then, like a jewel, it would still shine by itself, as something that has its full worth in itself.

MM, 8

Hegel makes clear that such an undue emphasis on the intention is highly problematic. In refusing this emphasis, he becomes a determined advocate of the outer:

The analysis of this being into intentions and subtleties of that sort, whereby the actual man, i.e. his deed, is to be explained away again in terms of a being that is only ‘meant,’ just as the individual himself even may create for himself special intentions concerning his actuality, and this must be left to the laziness of mere conjecture.

PS, 194

Of course, it is not only Kant who represents this, from Hegel’s perspective, misguided conception of action. In a different, yet related manner, the concept of the beautiful soul betrays a vivid inclination to consider the inner reality to be the key to spirituality. To overcome Kant’s juxtaposition of duty and inclination, of intention and materiality, Schiller maintains that both inclination and materiality are necessary components of whatever might be considered as good. Therefore, the outer needs to be educated into being a faithful “partner” to the inner, this harmony of the inner and outer, of spirituality and materiality being called beauty.

Hegel steps in against all of these possible takes on the problem of duality. Against Kant, he maintains that both the romantic and the phrenologist

are right to emphasize the importance of the outer. Against the phrenologist, Hegel claims that he misunderstood the outer and against the beautiful soul, he contends that conceiving freedom as a harmony of the inner and outer is wrong from the very start because although the outer is considered valuable, it is nonetheless under the command of the inner.

How then are we to understand Hegel's own position? From Hegel's perspective, the phrenologist errs as he considers the skull to be the outer layer of the spirit. Instead Hegel contends: "The true being of a man is rather his deed; in this, the individual is actual" (*PS*, 193). Despite Hegel's continual criticism of the concept of the beautiful soul and of romantics, it is fair to note that this very point is made by Schiller himself in his text *Grace and Dignity*, the *locus classicus* for the treatment of the beautiful soul: Man proves being a person *only as acting* (Schiller 1968, 251).

Hegel's opposition to the romantic conception of action is well-argued nonetheless. We have seen that in Kant's work, it is the self who holds the monopoly to interpret his or her action. Now, Schiller contends that this interpretation is in a way superfluous, at least in the case of an educated individual. The individual shall educate his outer form so as to reflect the inner perfectly, and thus the outer shall be one with the inner. Despite differences between Kant and Schiller's thought on this subject, in both cases, we witness a retreat into the subject: It is from the perspective of the intention, of the inner, that we shall judge a concrete act.

In *Phenomenology*, Hegel now steps in to play on an analogy between Kant's flawed understanding of organism and the idealistic conception of action. In both cases, it is the intending subject who interprets the consequences. With good reason then, does he claim: "Yes, it looks as if I have intended to harm person x, but my intentions were the best." This, however, points to a serious problem. As in the case of organism, the subject is entitled to offer a master interpretation of the situation, and, in this sense, subjective idealism devaluates not only the natural but the common social world as well because it is linked to a peculiar kind of disrespect to how others interpret and experience the subject's actions.

Hegel insists that the truth of the organism lies in its ability of self-maintenance in a changing environment and the truth of the intention in the act—not despite the fact that in acting, the subject may be surprised by the dynamic of his deed and thus learn to be attentive to its consequences but because of this independent force of the act. From this perspective, Hegel translates Kant's self-reflexivity of reason into the self-reflexivity of the act: Man needs to understand that from reason's perspective, not only are his attitudes lacking sufficient grounds, his action too is severely limited. Thus, he first

needs to learn to respect and tolerate others' understanding of his deeds and second reach the insight that one needs to "commit himself to the objective element and risk being altered and perverted" (*PS*, 193).

Acting is not to be understood along the lines of manufacturing an object. Instead, its dynamic is born in the consequences, and therefore, action is intrinsically bound up with reaction. Once man has acted, he needs to react to the consequences of his act. In this sense, action is, just as reason, self-reflective and thus conscious of its limitation. Acting thus supervenes on the distinction of activity and passivity, intention and consequences, inner and outer. Acting means being in a self-reflected way subjected to the consequences of one's deeds. Thus, it is as well in this context that Hegel finds the dichotomy of activity and passivity to be unsuitable for capturing either a living organism or a free act.

5 Freedom and Its History

Even more importantly, this duality misses the concept of modernity, modernity being characterized by refusing the opposition of activity and passivity on numerous levels—religious, political, social, familial and even gender. In Hegel's understanding of Christianity, God himself actively bears passivity; in the political realm, kings are beheaded and democratic institutions based on collective procedures begin to form. The family itself is built on mutual recognition, the market supervenes aristocratic structures, and, not least, women traditionally understood as a passive element start to actively enter the public sphere. For Hegel, all of these developments stem from insight into the origin of objective order that now is taken to be a collectively negotiated structure, a "human collective mindedness," as Terry Pinkard aptly notes (2017, 100).

The discovery of the reflexivity of objective structures is considered to be a highpoint in the "progress of the consciousness of freedom" (*PH*, 88). This consciousness of freedom and the concomitant ability to act and transform one's environment is the key difference between spirit and nature, as Hegel states in the passages he immediately relates to his treatment of phrenology.

But organic Nature has no history; it falls from its universal, from life, directly into the singleness of existence, and the moments of simple determinateness, and the single organic life united in this actuality, produce the process of Becoming merely as a contingent movement, in which each is active in its own part and the whole is preserved; but this activity is restricted, so far as *itself* is concerned, merely to its centre, because the

whole is not present in it, and is not present in it because here it is not *qua whole for itself*.

PS, 178

Eventually, Hegel agrees with Kant that organic nature bears only a semblance of freedom, the reason being that, for the organism, the scope of its reaction is limited, while man is able to inaugurate, by way of reacting on the previous sequence, a new surprising sequence of events. It is not a newness derived from the fact that as free, man's home is the noumenal realm. This newness derives, quite paradoxically, from the given and the received. Thus, neither does man escape causality nor is his act absolved from being a reaction. But this reaction is substantially unpredictable. Although the organism creatively reacts on natural causality, man's reaction has the capability of inaugurating something new and, thus, can even lead to a revolution in being. Simply speaking: When man acts, anything can happen. That this newness is a specific human kind of newness, not a godly *creatio ex nihilo*, is attested by the fact that often revolutionaries themselves learn only retrospectively what they have enacted. Paradoxically, although these acts often are aimed at preserving traditional rights, they arrive in a new situation.⁴

This link between freedom associated with newness and history is of permanent interest to Hegel. In fact, freedom is defined by its creative nature; by the fact that, as opposed to nature, it creates history. At this point, I want to leave Hegel's *Phenomenology of Spirit* and focus on this specific freedom we have arrived at as embodied by the world-changing individuals because these propel the progress that is characteristic of human spirit.

Although Hegel's conception of history traditionally has been taken to be the most metaphysical part of his work, his emphasis on strong individualities, on their passion, and on the value of action is decidedly modern. Equally modern is Hegel's conception of history as a narrative lacking a judge external to history. There is no last judgment to come; instead history judges itself continually, retrospectively, and self-reflectively. The last judgment then is secularized into the judgment of coming generations. In this sense, the structure of history—the events, their consequence, and their retrospective interpretation and re-interpretation—is itself self-reflexive and in a sense organic.

4 This point is nicely summed up by Hannah Arendt (2018, 371): "The fact that the word revolution originally meant restoration is more than a mere oddity of semantics. Even the eighteenth-century revolutions cannot be understood without realizing that revolutions first broke out when restoration had been their aim, and that the content of such restoration was freedom."

Taking a closer look at world-acting individuals, we notice that Hegel repeatedly emphasizes the power of thought destroying existing structures. The freedom of world-acting individuals is essentially linked to negativity, to moving what hitherto has remained unmoved. In Hegel's understanding, each of the historical individuals has contributed to a new understanding of freedom. In this sense, Hegel's conception of history is a narrative of deeds carried out by enlightened figures.

If this is the case, then we need to inquire into the nature of freedom of world-changing individuals. From a certain viewpoint, they appear to be the least free because in these the need of the time materializes and, in a way, even degrades them to puppets of a given situation. From this perspective, they are thoroughly subdued to their time, the world-spirit being their master. Despite the fact that many of Hegel's statements point in this direction, I don't think that this interpretation is the only possible. Instead, I want to focus on the fact that it is only retrospectively that we discover a *telos* toward which world history tends. But even more importantly, considering world-acting individuals to be mere puppets of a metaphysically conceived spirit misses the point of Hegel's conception of freedom. Certainly, man's freedom is always conditioned. But this does not make it void. From this perspective, world-changing individuals inevitably act under certain conditions, and their significance stems from the fact that they understand these conditions better than others and therefore are in a more intimate relation to them.

However conditioned world-changing individuals might be, they are by no means determined by it and, therefore, we are in no position to anticipate the outcome of their action. We can take up Hegel's own formulation: The agent needs to commit himself or herself to the objective element and risk being altered and perverted. In fact, it is a frequent phenomenon that revolutionaries fail to recognize themselves in their accomplishments: from the perspective of the agents, a revolution accomplished is often a revolution betrayed. This personal disappointment does not invalidate the revolution. Once we accept that acting is not to be understood along the lines of manufacturing an object but more along the lines of a performance, then the agent does not exercise a monopoly on his or her deed. Others can legitimately step in and change the dynamic of the situation, even contrary to the revolutionaries' original idea.

Hegel often comments on a peculiar arbitrariness of a revolutionary time. What hitherto has served as the wall against contingency is abolished while new values have not been adopted yet. But how is it that new values are adopted and new criteria for public life are accepted? In modern times, this can succeed only in the process of free recognition. A modern revolutionary does

not appeal to God's will but instead appeals to the public. If he succeeds and if he gains recognition, the potential arbitrariness of revolutionary ideas is removed precisely by being integrated into a network of human cooperation and understanding.

In fact, on Hegelian terms we can even formulate a provisional criterion for distinguishing between legitimate world-changing individuals and those that merely exert their power over others. World-changing individuals *as individuals* are capable of explicating a "need of the age," a need felt by many, thus a *general* need taken up and voiced by the few. Of course, this recognition may not occur, in which case the idea fades away, or it may gain recognition not immediately but progressively. In any case, the relation of these figures to their world tends to be highly ambivalent; they negate the *status quo* to set new worldly measures and often sacrifice their life to what they understood to be their vocation.

It was theirs to know this nascent principle; the necessary, directly sequent step in progress, which their world was to take; to make this their aim, and to expend their energy in promoting it ... They die early like Alexander; they are murdered, like Caesar; transported to St. Helena, like Napoleon ... They are *great* men, because they willed and accomplished something great; not a mere fancy, a mere intention, but that which met the case and fell in with the needs of the age.

PH, 31

In Hegel's understanding, the new conception of freedom often can be realized only once the world-changing individual leaves the scene. As long as he is present, the public order necessarily stands up against him. Why is this so? His innovation is directly linked not only to a "need of the age" but to his individuality as well. In this context, Hegel remarks: "their conduct still has the appearance of being their particular will" (*Enc*, § 93, 98). In other words, in this individual struggle, others cannot participate: the individual has a near monopoly on the situation. In this logic, Jesus had to die so that his message could be universalized in the form of a shared and, in a way, even anonymous spirituality. As long as Jesus is present in flesh, others are doomed to be mere followers, while being a follower is incompatible with Hegel's conception of reflective freedom that takes its standard from one's own activity.

Yet there is another serious problem. As present, world-historical individuals appear to be an obstacle to the freedom of others and thus the power of the public order stands up to protect the status quo, and according to Hegel, rightly so:

The established laws are defended against the law of an individual, because they are not an unconscious, empty, and dead necessity, but a spiritual universality and Substance; ... [the individuals] cling to it with their hearts, as being their essential being; and, if this ordinance is taken from them, or they place themselves outside it, they lose everything. Since it is precisely in this that the reality and power of public order consist, the latter thus appears as the self-identical essence alive in everyone, and individuality appears as its form.

PS, 227

We learn that Hegel considers this audacious and passionate freedom not only something necessary to historical progress, something he celebrates, but something he finds disturbing as well—this freedom of the individual destroys public order and endangers the freedom of the many. Their fear to “lose everything” and their defiance against the world-changing individual is from this perspective a legitimate one.

6 Freedom of the Objective Spirit

Understanding history as progress in the consciousness of freedom and thus as a sequence of deeds performed by strong individuals is only one side of the picture, and it may not even be the most important one. In Hegel's conception, the dynamics of history bear a promise: History may reach an end. There may come a time when the objective structures guarantee freedom and then people no longer need to be exceptional to be free; instead, freedom will be “administered” evenly by institutional checks and balances. In this sense, the modern state is itself a revolutionary, world-transforming structure in making the fight for freedom of individuals, their grandeur, superfluous. One shall not need to be exceptional to be free; freedom is a right common to man as man, an institution safe-guarded by the state.

According to this reading, “the end” of history obviously wouldn't be a point in time when, finally, nothing happens. Instead, “end” shall be understood as a *telos*, conceived along the lines of an organism's *telos*. In this reading, history tends toward realizing the innermost principle of spirit and of humanity's nature (*WH* 88) and thus establish universal freedom already in the present state, not in a noumenal realm. From this perspective, Hegel continues an idea expressed by Kant: In a time when all absolutes are relativized, life itself tends to become prosaic. No longer are people prosecuted for their thought,

this being something eminently positive; the backside of this is that the value of what can be said and done has decreased. People don't die for their opinions because they have nothing world-changing to say; and they have nothing world-changing to say because the world need not be changed because the principle of spirituality, i.e. freedom as universal guarantee, already has been formulated. In fact, this very idea of freedom being formulated is identical with modernity.

The concept of history as a sequence of struggles for freedom takes us to a fear profoundly linked to Hegel's philosophy. Many have voiced the suspicion that Hegel's philosophy of freedom is in fact a philosophy of un-freedom, as famously propounded e.g. by Karl Popper (2011). Popper misses the point of Hegel's philosophy. Instead of projecting a totalitarian society, Hegel's philosophy of history reconstructs the gradual establishing of institutions guaranteeing individual freedom. In this sense, modern law itself can be understood as the eventual outcome of the struggle for recognition that now takes the form of an anonymous structure. From this perspective, the work of great individuals needs to be turned by others into an objective structure, and only thus is the deed fulfilled. Hegel illustrates this point with the figure of Jesus. It was only by his followers that Jesus' work has been fulfilled. In fact, it is only in the apostles that we find the whole and developed truth because even "the kingdom of God needs organization" (VPG, 397).

But there is something disturbing about this form of freedom. If we strive for the translation of actual and individual struggles into an anonymized structure, at the same time we are moving toward a process of a habituation of freedom. Thus, if the trend of Hegel's philosophy does not tend toward an un-freedom, as Popper wrongly suggests, it points toward a form of a habitualized form of freedom. I want to illustrate this by a paragraph in Hegel's *Outlines of Philosophy of Right* that links the feeling of security, a feeling central for freedom, to an invisible structure of habituation being the foundation of modern state:

We trust that the state must subsist and that in it alone particular interests can be secured. But habit blinds us to that on which our whole existence depends. When we walk the streets at night in safety, it does not strike us that this might be otherwise. This habit of feeling safe has become second nature, and we do not reflect on just how this is due solely to the working of particular institutions. Representational thought often has the impression that force holds the state together, but in fact its only bond is the fundamental sense of order which everyone possesses.

As simple a phenomenon as walking securely on the street by oneself is not a solitary act, but a “We” is, in a way, accompanying us, and as long as we belong to the “We,” we feel safe. If the “We” is defined by inclusion, and thus if we recognize that in a modern state anyone is deemed respectable on the sole basis of being a person, irrespective of being Jew, Catholic, Protestant, German or Italian (*PR*, § 209, 198), we feel secure by being surrounded by this “invisible” but inclusive “We,” by the shared idea that “the human being as human is free” (*WH*, 80). If this “We” does not live up to this standard that Hegel considers a prime condition of the modern state, the idea of security and along with it freedom will be made void.

Nowhere does Hegel claim that the state and its institutions do not face the danger of falling behind this goal and thus again fail to guarantee freedom of self-determination. But in my interpretation, the point of Hegel’s philosophy of history is that this legitimate demand to be accorded equal treatment on the basis of being human is a goal any society will always tend to because it is the very structure of human spirit. Far from being an unworldly ideal derived from a noumenal realm that Enlightened figures project on empirical reality, it is in historical struggles that we have learnt that the human spirit and a passion for freedom are one.

Even though Hegel repeatedly distances himself from attempts to construct noumenal ideal realms above the empirical reality, in a way, this stage of universal equality is ideal nonetheless—it is a stage difficult to reach and even more difficult to maintain. New forms of un-freedom, forms specifically linked to a modern society, continually appear. These emergent forms of un-freedom, however, do not dispute Hegel’s insight that freedom is lived in the plural, in cooperation and conflict, and therefore needs anonymous structures that support it as a shared common good.

7 Conclusion

By emphasizing the institutional dimension of human freedom, it is not my intention to deny that anytime man can be challenged to accomplish a purely personal, subjective free act. But I do claim that by its very nature, human freedom goes beyond itself. Man encounters this peculiar form of transcendence in the form of unintended consequences of free acts as well as in the inherent need to transform freedom into an objective structure. Thus, individual freedom always tends toward a super-individual system that, however, always fail to be absolute. This collective mindedness is always conditioned by the

subjective ability and willingness to recognize it⁵—and, thus, man's subjective freedom, his negativity, his ability to refuse to identify with social forms he deems unfree, is what needs to be counted on.

What then are we to do with the audacity from which we have started? Audacity moves what hitherto has remained unmoved. The *telos* of Hegel's philosophy, as I read it, is a transition from heroes fighting for freedoms to "men without qualities" living in a free and, therefore, prosaic world, in a world of small deeds and a *bond* of freedom, maybe even more an atmosphere of freedom that rarely calls for the *consciousness* of freedom. Lacking an explicit consciousness of freedom is not necessarily a deficiency but often a sign that one's freedom can rest on others and on institutions guaranteeing basic freedoms.

Many have criticized Hegel for subsuming the individual under general objective structures and have considered this a reactionary side of Hegel's philosophy, a metaphysical conception failing to be true to modernity. In my reading, this insight is, quite on the contrary, Hegel's most profound and at the same time most disturbing insight into the nature of freedom. In fact, Nietzsche or Kierkegaard's emphasis on the freedom as the power of the individual appears as old-fashioned compared to Hegel's conception of freedom as something evolving with individuals but forming more a common bond with others, more an atmosphere of their thought and actions than a personal dimension. Unless the atmosphere is free, the freedom of the individual is unsatisfying, but once the atmosphere is free, the audacious act, and along with it individual freedom, becomes superfluous.⁶

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5 This point has been very well argued for by Schmidt (2013, esp. 85 f.).

6 This work was supported by the European Regional Development Fund-Project "Creativity and Adaptability as Conditions of the Success of Europe in an Interrelated World" (No. CZ.02.1.01/0.0/0.0/16_019/0000734).

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Is There Any Philosophy of History?

Jean-François Kervégan

The notion of philosophy of history is nowadays often mentioned in a vague manner or as an object of suspicion. It is mentioned in a vague manner because the criteria that specify and distinguish it from the approximate ideas or representations that people might have about history are rarely mentioned, even if Hegel reminds us in one of his lessons that history and philosophy of history are two very different things.¹ It is also a common object of suspicion because people generally assume that the “continuist, hyper-rationalist” mode of thinking found in any philosophy of history would be obsolete.² Dismissing philosophy of history and the rationalist and teleological interpretation of world history that it has incarnated since the Enlightenment seems to be the consensual basis upon which any contemporary reflection *about* history proceeds (Marquard 1973). At the same time, the critique of the philosophy of history, which is perhaps not entirely exempt from a historicism whose “poverty” it denounces, tacitly admits the homogeneity and continuity of *the* philosophy of history, from Voltaire and Condorcet to Hegel and Marx, passing by Kant and Fichte, even though such a continuity is far from being evident (Popper 1957). This sort of critique often assumes that the basis for such belief in the teleological rationality of history and in its “meaning” is to be found in its most solid—and yet most absurd—form in the classic German philosophy, and above all in Hegel. Whether the teleology of reason systematized by Hegel is the secularized reworking of the theology of history derived from Augustine (Löwith 1949), or whether it is a manifestation of the self-affirmation of modernity (Blumenberg 1983), the revelation of its aporias would, as Lyotard says,

1 See Hegel 1955, 25: “Concerning history, I do not need to say anything; the common image that we have of it is enough ... What should be clarified, or even justified, is that we are examining a *philosophy* of the world history, and that we aim to treat *philosophically* of history.”

2 See Ferry (1996), 25. According to Ferry, Hegel’s thought can be summarized as a “theory of the cunning of reason” (53). Ferry recognizes the plurality of the philosophies of history since he distinguishes four models of philosophies of history (or even five, counting his own model), amongst which we find the “Hegelian model.” But it is clear that the “rationalist negation of the idea of praxis,” which is supposedly at the heart of the Hegelian philosophy of history, is the main object of a critique that aims, against Hegel, to rehabilitate Fichte or a certain way of understanding Fichte.

lead to the end of all the grand narratives: that of the *Aufklärung* as well as that of the theologies of history, and that of Hegel's dialectical reason as well as that of Kant's practical reason (Lyotard 1979, esp. 63).

Such critiques are often caused by a desire to fight Marxism, which is the main part of Hegel's posterity, but they neglect, despite its glaring evidence, the great diversity of the philosophies of history. In what follows, I shall first try to illustrate this diversity, which goes back to the very origins of the philosophy of history. I will then show what distinguishes and even separates two different "philosophies of history" which are often imagined to be quite close, that of Kant, which is not a *philosophy* of history in the strict sense, and that of Hegel, which is an essential component of a theory of spirit that is part of Hegel's conception of the whole speculative philosophy. I will argue that the difference between Kant's and Hegel's philosophical approaches to history, which is sometimes minimized due to a careless confusion between Kant's "cunning of nature" and Hegel's "cunning of reason," is perhaps due as much to their definition of philosophy as it is to the manner in which their philosophies consider history.

1 Philosophy of History before German Idealism

The expression "philosophy of history" first appeared in 1765 as the title of a book that was published under the pseudonym "late Abbé Bazin," and whose author was quickly discovered to be Voltaire himself. From 1769 onwards, this text became the introduction to his work *Essai sur les mœurs et l'esprit des nations et sur les principes fondamentaux de l'histoire depuis Charlemagne* (*Essays on the Manners of Nations*). Even if there are a number of antecedents (such as "theoretical history," "hypothetical history,"³ "conjectural history," and even "natural history" in the new sense given to this term by the Scottish historical school),⁴ no earlier occurrences of this expression have been discovered. For example, it is not to be found in the entry "History," written by Voltaire himself, of the *Encyclopédie* edited by Diderot and d'Alembert, or in the entries "Philosophy" or "Philosopher" ones. This omission can be understood in the light of the topography of knowledge and of powers of the mind established in D'Alembert's *Preliminary Discourse* of the *Encyclopédie*. Whilst history,

3 Rousseau 1964, 127. See also Diderot, entry "Art," in the *Encyclopédie*.

4 Ferguson himself does not use the term "natural history" in this sense. But his editor Duncan Forbes says precisely that the history of civil society as reconstructed by Ferguson is a "natural history of man" (Forbes, "Introduction," in Ferguson 1966, xv).

according to D'Alembert, "is related to memory" and divided between diverse branches whose organizational principle is narrative (and not deductive), philosophy, whose approach is deductive, "is the fruit of reason."⁵ History and philosophy thus constitute two of the three distinct branches of knowledge, each of which corresponds to a different mental faculty. One can thus appreciate Voltaire's audacity in associating two terms that are based on distinct ways of thought. Besides, his "philosophy of history" had far more modest ambitions than those attributed to the "great" philosophies of history of German Idealism. It above all aimed to dismiss all of the "absurd fables" (Voltaire 1990, vol. I, 191) born from religious superstition by projecting the light of reason on "the enigma of this world." (Voltaire 1990, vol. II, 806) Rather than being interested in the "chaos of events, factions, revolutions and crimes" that make up empirical history (Voltaire 1990, vol. II, 905), a historian who aims to be philosophical, as does the author of *The Age of Louis XIV*, should take "the history of the human spirit" as his object (Voltaire 1990, vol. II, 904). Such an ambition can also be found in Condorcet's work. Indeed, his book *Outlines for a Historical View of the Progress of the Human Mind* presents itself as the equivalent of metaphysics in a temporal and collective perspective, since its object is "the constant laws presented by the development of the [human] faculties." (Condorcet 1970, 2) It could be said that the philosophy of history as understood by Voltaire and Condorcet belongs to what Toynbee calls "metahistory," which is distinct from ordinary history inasmuch as it is concerned with "the nature of history," and "thus is related to metaphysics and theology."⁶

Given the context in which it appeared, it is quite legitimate to consider Enlightenment philosophy as one of the main sources of a philosophy of history, either in the French form of a "historical picture" or in the English-Scottish form of a natural history of the human race. This is especially the case because the Enlightenment's main focuses on the past, the present and the *future* of societies were related to the certitude of a "natural progress of the operations of the spirit" (D'Alembert 2000, 111) and to the conviction that "nature has indissolubly united the progress of enlightenment and liberty" (Condorcet 1970, 9). One must however not forget that this so-called rationalist philosophy of the human progress was shaped in constant confrontation with another

5 D'Alembert 2000, 111. It is true that the Preliminary Discourse of the *Encyclopédie* mentions a "philosophical history of the origin of our ideas" which would somehow form "the genealogical or encyclopaedic tree" of our knowledge; but he immediately adds that the "general system of the sciences and the arts" must not be "slavishly subjected to this history," which thus remains auxiliary.

6 Toynbee 1988, 487. Toynbee quotes as an example of a text with metahistorical considerations Augustine's *Civitas Dei*!

conception of history, which was completely opposed to the rationalism of the Enlightenment philosophers and to their faith in historical progress. Based on the Christian theology of history, which from Augustine to Bossuet was founded on the strict separation of sacred and secular history (itself derived from the distinction between the city of God and that of humanity), this second tradition had a considerable influence on Herder and on the German romanticism. The cleavage of the Eighteenth-Century philosophy of history into two antagonistic currents can be schematically compared to that between *Aufklärung* and *Gegenaufklärung*, Enlightenment and Anti-Enlightenment (Sternhell 2010). In my opinion, this throws a different light on the hyper-rationalist project that is attributed to Enlightenment philosophy. Indeed, certain characteristic features of the philosophies of history found in the German idealism cannot be understood without keeping in mind this confrontation, which, if not always explicit, was always at work. This debate took place between various thinkers, such as Kant and Herder, of course, but also Hegel and Friedrich Schlegel (Kervégan 2015).

The most eminent and influential representative for this “other” philosophy of history is certainly Herder. His conception of history is more subtle and less “reactionary” than the image that has been kept of it—and Kant had no little part to play in the construction of the latter, saying of Herder’s analyses that they came down to “explaining what is not understood by what is still less understood” (Kant 1969c, 53). It however remains true that Herder’s philosophy of history was intended to contest that of the “gentle philosophers” by refuting their fundamental beliefs, beginning with their linear vision of the progress of civilization. Herder’s conception is exposed in two books, *Auch eine Philosophie der Geschichte zur Bildung der Menschheit* (1773) and *Ideen zur Philosophie der Geschichte der Menschheit* (1784–91). If one draws solely on the first text (way shorter than the other, which is way the object of Kant’s review), one can schematically say that the critique of the Enlightenment philosophy, and more generally of the mechanical character of the modern spirit, is based on the refusal of any linear and teleological vision of historical progress. Indeed, Herder opposes to this “fantasy” another narrative, that of organic growth, which would enjoy a successful career. According to Herder, there is undoubtedly some kind of “progression” (*Fortgang*) in history, but no “progress” (*Fortschritt*) in the meaning in which the Enlightenment philosophers understand this term, because “we always build on what has preceded us” and because “the pendulum always swings with the same force” (Herder 1891, 512). *Discontinuity* plays a major role in this progression, because there are “revolutions and transformations” that progressive rationalism, according to Herder, cannot explain. Moreover, the Enlightenment’s abstract universalism and its cult of

“humanity” would, according to him, reveal a European ethnocentrism which, by dismissing the fact that the cultural diversity is the motor of change (Herder 1891, 544), destroys what makes up the very wealth of civilization (Herder 1891, 550). Well before the emergence of any “decolonial” conscience, Herder understood that enlightened humanism had a dark side. Should one then conclude that history is a disparate chaos devoid of meaning? On the contrary, Herder concludes that history does certainly have meaning. However, “that meaning, that holistic view must necessarily escape the human race,” since the labyrinth of history is “the palace of God, made for him to find completion, made perhaps for his viewing pleasure, but not for ours” (Herder 1891, 559–560).

The historical-philosophical program of German Idealism maintains in its general outline the Enlightenment’s conception of history. History would be a progression, and the vector of this progression would be human culture. Modernity possesses an intrinsic legitimacy that is superior to that of previous eras, which are still buried in the superstition’s obscurity. The difference between Enlightenment and German Idealism lies in the fact that the idealist program also takes into account the objections of “anti-Enlightenment” thinkers against this optimistic, linear and humanist vision of history. In a certain manner, it is the competition between these two apparently unilateral visions of history that led German Idealism, and especially Hegel, to develop a dialectical conception of history in which the negative aspects underlined by the opponents of the Enlightenment philosophers became a driving force of historical progress.⁷ As a result, one should, when speaking of *the* German Idealist philosophy of history, take into account its complex relation to another philosophy of history, that of the *Gegenaufklärung*.

2 Kant: between “Natural” History and “Philosophical” History

Is there anything like a philosophy of history in Kant? This might seem a surprising question, given the number of books and articles that have been written on the subject. My feeling is however that there is no such thing in Kant’s thought, at least if the term “philosophy” is used in the precise meaning that the German philosopher gives it—namely a “system of rational knowledge via concepts” (Kant 1969b, B 741)—and if one correctly identifies the intention behind his texts on history. These texts are closely related to what Kant terms “anthropology,” which does not deal with the rational normative

⁷ See Hegel’s comments on the “progressive” character of the invention of firearms: Hegel 2009, § 328 Anmerkung, 268; Hegel 1970, 481.

principles of action, but with the “conditions of their realization.” These conditions lie in the “particular *nature* of man” (Kant 1969d, 217; cf. 1969e, 119–122). However, considering that an applied philosophy (to which anthropology belongs) exists besides pure philosophy (i.e. metaphysics) could lead us to state that Kant’s thought also displays a philosophical discourse applied to history, even if this discourse is not a “philosophy of history” in an emphatic meaning.

The texts usually grouped under the category “Kantian philosophy of history” are quite heteroclite. They do not always treat solely of history (at least in the meaning which historians give this term), and even less of universal history (*Weltgeschichte*) in Hegel’s sense. The 1784 essay *Idea for a Universal History from a Cosmopolitan Standpoint* is thus almost an exception among these texts. However, what unites them is the domain with which they are concerned, which is situated on the border between nature and history. This is especially noticeable in the two texts (1775/7; 1785) which deal with the notion of race and with the human species. Kant attempts to show that we can at the same time consider the human species as unique and the human races as diverse without contradiction, as long as we do not remain within a strictly naturalistic approach. This kind of investigation requires some hypotheses “whose origins go back beyond any history” (Kant 1969a, 102). Thus, it does not belong to the field of empirical physical science, but to an examination of what the nature of man—which can be scientifically described—allows in terms of conjectures with regard to the species’ past and future. Kant’s considerations on history, like those of Rousseau’s *Discourse on the Origin of Inequality*, belong to a “conjectural history.” This kind of history does not consist in “bas[ing] a historical account solely on conjectures” (Kant 1969f, 109), in other words, in writing a novel. It is rather an “exercise in which the imagination [is] supported by reason” (Kant 1969f, 109). Thus, reason remains the architect of conjectural history. It is only in this case that history can, in a Kantian perspective, find a place in philosophy or its margins.

More precisely, such history, which is quite different to that of the historians, must be “a history of the first development of freedom from its origins as a predisposition in human nature” (Kant 1969f, 109). It is indeed such natural “predispositions” (*Anlagen*) of humanity that allow the hypothesis of the natural spread of liberty and of its progress—a progress which cannot be *known*, yet must be *thought*. What Kant distinguishes from the “description of nature” and calls “natural history” (Kant 1969g, 164) thus belongs to anthropology. It consists in an investigation on the border between nature and culture of what human beings (as a species, and historically) can and must do with their nature. Any “history of man’s destiny” is thus closely related to anthropology, whose tools “are to be found neither in metaphysics, nor in a museum of

natural history” (Kant 1969c, 56). Just like anthropology, which furnishes its instruments, conjectural history examines what could and should be in the light of what is. It is the study of how the ends of reason (which can only be defined independently of all experience, by a metaphysics that is conscious of its limits, since “true metaphysics knows the limits of human reason”⁸) could find favorable grounds in natural human predispositions, which evidently require cultivation.

There is a significant difference, which lies in the importance given to teleological considerations, between the “natural history” of humanity and anthropology. If teleology is not absent from anthropology, which concerns the “natural” (psychosocial) conditions of realization of the ends of reason, it remains in the background of Kant’s texts on race or of his *Anthropology from a Pragmatic Standpoint*. In contrast, the question of the “ultimate end” of history is placed in the foreground of the texts focusing directly on the manner in which philosophy should treat history. Consequently, one could perhaps say that *two* distinct understandings of history co-exist in Kant’s writings. One sentence from *Conjectures on the beginnings of human history* might justify such a hypothesis:

The history of *nature* begins with goodness, because it is the *work of God*; but the history of *freedom* begins with evil, for it is the *work of man*.

KANT 1969f, 115

Let’s start with the idea of the “history of nature.” Kant’s conjectures on the origins of history and on the diversification of the human races are rooted in what is termed, from Aristotle to Buffon and Herder, “natural history.” Kant separates it from a mere “description of nature,” because it “only deals with the generation and the [diachronic] ancestry” of species, whilst the “description of nature” orders species synchronically, as in Linné (Kant 1969a, 100). Moreover, for Kant, history has to be distinguished from geography, which covers the entire range of the description of nature, because its standpoint is temporal and not spatial. It is a narration rather than a description (Kant 1969h, 161). History’s denomination of nature, which overlaps both domains, is thus “entirely inaccurate” (Kant 1969h, 161). Indeed, as a non-exclusively causal, explanatory or “natural” reconstruction of the successive events’ connection in time, history exceeds the domain of nature. Nature does not narrate its own history. Our task is then to create that narrative, which supposes that we adopt the posture of the “prophet himself [who] occasions and produces the events he predicts” (Kant 1969i, 80). In contrast to the (scientific) *observation* of nature,

8 Cf. Kant 1969g, 180: “true metaphysics knows the limits of the human reason.”

the *interpretation* of history, past as well as present, is according to Kant always in some manner “predictive,” divinatorial or “prophetic” (Kant 1969i, 79, 84, 87).

This leads us to the second understanding of history displayed in Kant’s thought, that is, the “history of freedom.” This concept is the one mobilized in any *philosophical* history of mankind (which is not, as in Herder, a philosophy of the history of mankind). Of course, this philosophical history cannot ignore the natural determinations investigated by anthropology, because they are necessary to interpret the perfectibility of mankind and its openness to progress. We could of course speak at a pinch of a “general natural history of mankind” (Kant 1969c, 61), although such an expression corresponds to Herder’s project rather than to Kant’s. However, if it must be a “history of man’s *destiny* as a whole” (Kant 1969c, 56). In other words, if humanity is to be considered in a teleological perspective, a historical thought cannot be shaped with concepts relative to nature. As a result, the concept of a *natural* history of humankind is contradictory, since this kind of history can only be reconstructed in a relevant manner in the light of what, within that history, exceeds naturality while basing itself on nature. That’s why the second heuristic and hermeneutic understanding of history progressively takes over from the naturalist conception upon which the *Idea for a Universal History* was still based.

In my view, a significant part of the mistakes made in interpreting *Idea for a Universal History* are due to the ignorance of what distinguishes these two conceptions. One of them, founded on anthropological data, attempts to think the emergence of liberty on the basis of nature, whilst the other inscribes the progress of freedom within a teleology of practical reason. The *Idea* is still rooted within the first perspective. Evidently, Kant—who continually underlined the separation of the domain of nature from that of liberty—did not claim that the progressive realization of liberty could be the effect or the consequence of a “purpose,” an “intention” or a “hidden plan” (indeed of a “highest purpose”) of nature (Kant 1969j, 18, 27, 28, 29). If he had, it would be appropriate to speak of a “cunning of nature” which, like the Hegelian “cunning of reason” such as it is commonly (and falsely) interpreted, would turn political liberty (which is incarnated in a “perfect civil constitution”) into the result of a natural mechanism. But such an interpretation contradicts everything we know about Kant’s thinking. The *Idea* actually attempts to establish *two* results that belong respectively to the naturalist approach and to the teleological approach to history.

In the first perspective, the aim of the philosopher is to look for clues to the progressive emergence of liberty, inasmuch as it is facilitated by the aptitudes inscribed in human nature. In this sense, we can speak of a natural history of liberty, which would be illustrated by the theme of nature’s hidden plan. This first approach to history is directly related to anthropology, which must in this

sense be considered as the foundation of a “general natural history of humanity” that competes with that of Herder. Whilst Herder’s philosophical history, by referring, for example, to one or several “fundamental forces,” belongs to a “highly dogmatic metaphysics” (Kant 1969c, 54), Kant’s historical anthropology consists in showing how nature cooperates in the realization of ends that could only be the work of human freedom alone. The image of the “plan” (*Absicht*), which is merely an image since nature cannot create plans, arises on this base.

In the second perspective, which is both metaphysical and teleological, the history of humankind is provided with an “*a priori* guiding principle” (Kant 1969j, 30), as if everything in history, in an incomprehensible but nevertheless entirely rational manner (hence the invocation of Providence), conspired towards the realization of an end that is not natural, but purely moral (or ethico-juridical), since it is “*a priori* determined by pure practical reason” (Kant 1969g, 159).

The complexity of Kant’s *Idea for a Universal History* lies in the fact that these anthropological and normative perspectives incessantly mix without Kant using the theoretical instruments to explain this intersection. Those instruments will be later defined in the 1788 text on the use of teleological principles in philosophy and would be systematically tested in the *Critique of the Faculty of Judgement*. But as soon as one examines history from the standpoint of a “pure practical teleology, that is to say, from a morals” (Kant 1969g, 182–183), “one has already exited the science of nature” (Kant 1969g, 179) and entered into the realm of *normative reason*, that is to say, metaphysics. This domain is radically distinct from that of anthropology, even if the latter verifies and applies rational-metaphysical principles.

The second section of the *Contest of Faculties*, which evokes the “prophetic history of humankind,” is dedicated to the following question: “is the human race continually improving?” It illustrates the inscription of human history within a normative perspective. The issue is no longer that of the natural history of the human races but that of the “moral history” (*Sittengeschichte*) of humanity (Kant 1969j, 79). The terrain of anthropology is thus abandoned for that of morality, and more precisely for that of law. What indeed is this prospective narration of history? Following the style of the self-realizing prophecy, it consists in thinking what is—i.e. in thinking the most noteworthy events of human history—on the basis of what reason posits as what should be the “ultimate end”⁹ of creation, that is, the idea of “a constitution governed by

9 As well-known, in the *Critique of the Power of Judgement* Kant distinguishes between the final end (*letzter Zweck*) and the ultimate end (*Endzweck*): The first notion is ordinal, and the second notion is cardinal and teleological. See Kant 1969k, § 82, 426.

natural right of men.”¹⁰ Kant had already noted in the *Conjectures* that the idea of progress could not be empirically verified and that it was rather the result of a choice, that of considering history from the standpoint of a moral (or rather juridical) teleology. In this hermeneutic and normative perspective,

The course of human affairs as a whole ... does not begin with good and then proceed to evil, but develops gradually from the worse to the better; and each individual is called for his own part by nature itself to contribute towards this progress to the best of his ability.

KANT 1969f, 123

However, saying that nature calls upon humans to contribute to historical progress is not enough. What must especially be affirmed is that it is reason, this “restless reason, irresistibly driving humans on to develop their innate capacities” (Kant 1969f, 115), that requires it. The rational belief in progress is thus justified through what is essentially a normative option. If we consider that history is the theatre of progress, if we adopt—despite its dangers—a eudaimonistic vision of history and, as such, if we practice a kind of philosophical millenarianism,¹¹ it is because we *should* adopt such a perspective. Otherwise, the history of liberty would be reduced to the history of nature, which is not a proper history.

As well-known, one of the main theses of the second section of *The Conflict of Faculties* is that, although the question of progress is empirically undecidable, it can be related to “some experience,” to an “event” which “might suggest that humanity has the quality or power of being the cause ... and the author of its own improvement” (Kant 1969i, 84). This “event which *proves* [the] moral tendency of the human race” is the French revolution, or to be more accurate the “sympathy which borders almost on enthusiasm” which moves both its actors and its spectators, the neighboring peoples. Kant adds that “true enthusiasm is always directed exclusively towards the *ideal*, particularly towards that which is purely moral (such as the concept of right).” (Kant 1969i, 85–86) There is only one element that I would like to underline in this famous passage, since

10 Kant 1969i, 90. The *Conjectures on the beginning of human history* stipulate that this constitution is the “ultimate goal of culture”: Kant 1969f, 117. This concept would correspond to the *respublica noumenon*, in other words, to what the *Idea for a Universal History* named the “perfectly just civil constitution” (Kant 1969j, 24).

11 Kant 1969i, 81–82. In the *Idea* Kant had already remarked that “philosophy too may have its chiliaristic expectations” but that even so it was “anything but overfanciful” to believe in indefinite progress (Kant 1969j, 27).

it is quite characteristic of Kant's approach to history. The enthusiasm for law and for a republican constitution—inasmuch as it is manifested by a spectator motivated by a normative partiality for reason—is interpreted as an *clue* of the worth of the idea of historical progress. If there *is* progress, it is because one *has to* believe in it. It is thus evident that any philosophical investigation of history is structured by a “pure practical teleology, that is, morals.” These morals must however always be based on anthropological *data* which testify to the plausibility of its conclusions (Kant 1969g, 182–183).

Is there thus anything like a Kantian philosophy of history? It depends on what is meant by “philosophy” and “philosophy of history.” If one understands philosophy as *pure philosophy*, in other words, as metaphysics (and for Kant the latter is made up of two domains alone: that of nature, and that of freedom), any historical considerations do not belong to it. They are rather be part of anthropology, whose object is situated precisely at the intersection of nature and history. However, if one takes into account the existence of an *applied philosophy* whose core would be anthropology, a philosophical investigation of history would make sense and be worthwhile, even though it would not constitute a “philosophy of history” in the emphatic meaning that this expression took on after Kant. Such an investigation could be developed in two directions. If anthropological considerations were prioritized, one could work on a “history of nature” which would however not coincide with what we commonly define as “natural history.” If, on the contrary, normative considerations were at stake, then one would be in the field of “the history of freedom” which, in a counterfactual perspective, looks for clues of rational teleology in empirical history. It is therefore according to me simplistic to speak of Kant's “philosophy of history,” both because history is in Kant's perspective not an object of philosophy *stricto sensu* (“pure philosophy”) and because two distinct modes of investigation, “natural” history and “philosophical” history, are mixed together in his writings.

3 Hegel: Philosophy of History as a Part of a Philosophy of Spirit

If speaking imprudently of Kant's philosophy of history seems careless to me, it is incontestable that this discipline is situated at the heart of the Hegelian system. It is so inherent to this system that some scholars even see it as its weakest link. One example amongst others is found in Karl Löwith's *Meaning in History*, which underlines “the profound ambiguity” of Hegel's “great attempt to translate theology into philosophy and to realize the kingdom of God

in terms of the world's real history." (Löwith 1949, 58) Whether this judgement is well founded or not (for my part, I do not think it is), it has the advantage of reminding us that philosophy of history is not a piece separate from the Hegelian system as a whole, though it does not represent its last element. Its centrality is indicated by its strategic situation between finite spirit (subjective and objective) and absolute or infinite spirit.

The finite spirit's characteristic is "the disproportion between the concept and reality" (Hegel 1992, § 386, 383) Indeed, if it is true that freedom (understood as *Beisichsein im Anderen*, being with oneself amidst alterity) is the characteristic determination or the "essence" of the spirit (Hegel 1992, § 382, 382), finite spirit itself is not entirely conscious of this. In the different forms of subjective and objective spirit, spirit is in a certain manner on its way towards its own definition or its own "center." In this sense, it remains "a reality that is not adequate to its concept." (Hegel 2011, § 386 Zusatz, 941) This is not to imply that finite spirit is nothing, or merely an obstacle to be overcome. On the contrary, its determinations entail a fundamental instability, because they are affected by a discordance between being and reason for being. This means that they bear in themselves "the meaning of a suppressed [being] (*Aufgehobensein*), not that of a being-there (*Dasein*)" (Hegel 2011, § 386 Zusatz, 941). But saying this implies to admit the existence of an essential relationship between finite spirit and infinite spirit. In this manner "spirit is *just as infinite as finite*, and *neither* solely the one, *nor* solely the other; it remains, in being finite, infinite." (Hegel 2011, § 386 Zusatz, 942).

As a result, it is in the very heart of finite spirit, hand-to-hand with its resisting opacity to the concept, that absolute spirit, which, like the logical idea, is neither a being nor a substance but a process (Hegel 1992, § 215, 218), shapes itself. If there is a domain in which this inseparability of the finite and the infinite must manifest itself, it is that of history, inasmuch as it exposes the coming-to-be (*das Geschehen*) of absolute spirit into the time, i.e. its becoming infinite in the heart of the finite. Absolute spirit is eternal because it "abolishes" (*hebt auf*) time. However, this does not mean that the former is "beyond" the latter. According to Hegel, eternity is not "after" or "beyond" the time. It is actually present in time and constitutes its inner pulsation.

Two passages are particularly interesting in this regard. The first is found in the *Introduction to the course on the philosophy of history*:

The idea is present, spirit is immortal; there is no moment in which it has not been or will not be present: spirit belongs neither to the past nor to the future, but is simply now (*itzt*). Philosophy deals with the present,

with what is actual. The spirit actually possesses in its present deepness the moments which it seems to have after itself.

HEGEL 1955, 182–183

The task of philosophy in general and that of philosophy of history in particular is thus, in the terms used in the Preface to the *Philosophy of Right*, to “recognize reason as the rose in the cross of the present.” (Hegel 2009, 15–16) Philosophy, whose vocation is to “conceptualize what is,” deals with the eternal such as it is present within the time. In other words, practising philosophy consists, according to the famous formula from the Preface to the *Grundlinien*, in “think[ing] the rationality of what is actual and the actuality of what is rational.” This is why the aim of the philosophy of history is not to apply an *a priori* rational scheme to the course of empirical events, but rather to “recogniz[e] in the semblance of what is temporal and transient the substance which is immanent and the eternal which is present.” (Hegel 2009, 14) Such is the paradox of this philosophy of history. Its real object is not historical. It rather deals with what, within history, testifies an essentially meta-historical rationality.

World history is the exposition of the divine, absolute, development of Spirit in its highest forms, it is the gradual walk by which Spirit reaches its truth and acquires its self-consciousness.

HEGEL 1955, 75

What retains the philosopher’s interest in history is the act by which the absolute spirit occurs as an event, that is to say, what, even within the event itself, goes beyond the event-ness structure.

The second crucial text is the last page of the *Phenomenology of Spirit*, which shows how, once arrived at its “element” or its milieu (absolute knowledge), speculative philosophy (which Hegel calls “Science”) “contains within itself this necessity of putting out of the form of the pure Concept.” (Hegel 1980, 432) In a certain manner—this even is speculative philosophy’s “supreme freedom”—, it has to take leave of itself so as to guarantee its knowledge of self. This deprivation occurs both in the realm of *nature* and in that of *history*. The latter is simultaneously the alienation (*Entäusserung*) of spirit in time, and the alienation of that alienation, in other words, its recovery of self. Examined from a philosophical standpoint, history is a kind of retrospective reading of the path which consciousness and spirit have “blindly” followed along the stages reconstructed by the *Phenomenology*. Read (or re-read) in this manner, history is a “gallery of paintings which are all decorated with the richness of the spirit,” (Hegel 1980, 433) or, to say it in another way, a “realm of spirits”

that “constitutes a succession in Time in which one Spirit relieved another of its charge and each took over the empire of the world from its predecessor.”¹² However, in following this path—which is a painful ordeal, since history is the “Calvary of absolute spirit” (Hegel 1980, 434)—, spirit internalizes itself (it “recollects” [*erinnert sich*] its buried past) and thus attains “the revelation of the depth of Spirit,” which is precisely what constitutes the beginning of spirit’s self-knowledge and the beginning of the “*absolute concept*,” i.e. of philosophy (Hegel 1980, 433). However, this congruence of history and the concept can only be grasped from the standpoint of the latter. “Comprehended history” (*die begriffene Geschichte*: Hegel 1980, 434) has no doubt the same content as philosophy, but only philosophy can become aware of this point and demonstrate it. In other words, in philosophy of history, it is philosophy that has a grasp on history. In a certain way, this corroborates the critiques addressed to Hegel by the representatives of a pragmatic or positivist approach to history.

This grasp that philosophy (in Hegel’s conception) has over history and philosophy of history can be seen in the fact that the concept of spirit (*Geist*), to which long passages are devoted in the Introductions to the courses on the philosophy of history, constitutes its keystone. The very object of the philosophy of history is spirit, because history can only be understood as a history of spirit. Whilst Kant, as we have seen, attempted to give a precise meaning to the history of nature (by distinguishing it from “natural history,” which is merely a description of nature), Hegel operates a strict demarcation between nature and spirit, or nature and history. This separation finds its justification in the architecture of his system as a whole. Spirit is indeed defined as “the act of returning to oneself from nature,” (Hegel 1992, § 381, 382) which is itself understood as “the idea in the form of being-other.” (Hegel 1992, § 247, 237) As the negation of a negation, spirit is a process of recovering the identity of the idea, such as established in a still abstract manner in the *Logic*. Its freedom—and one should not forget that, according to Hegel, before being a determination of spirit, freedom is the characteristic of the concept, that is, of the thought’s self-movement¹³—consists first of all in an *Aufhebung* of the exteriority of nature. But this re-conquest can only happen thanks to the “infinite pain” of negativity (Hegel 1992, § 382, 382). That negativity is to be found first of all in nature, “before” spirit, and then in spirit itself, and especially in history.

12 Id., *ibid*. These successive spirits are the various dominating *Volksgeister* whose inheritance, which is described at the § 344 of the *Grundlinien*, constitutes the framework of history and the basis of its division in four different “reigns” (*Reiche*).

13 Hegel 1981, 15: “The realm of liberty opened itself in the concept.” Cf. Hegel 1992, § 160, 177.

This processual character of spirit is incompatible with a substantialist interpretation. Spirit is not a being, a substance or a thing (not even, following Descartes' (1967, 419) definition), a "thing that thinks," but a movement, a "manifestation" or a "revelation."¹⁴ This manifestation, as demonstrated in the *Logic of Essence*, must not be understood as the manifestation of a preexisting "interiority," because spirit exists only in so far as it manifests itself, and because it is what it manifests. One could figuratively say that its surface is its depth. These stipulations are necessary to dismiss any anthropological (or anthropomorphic) interpretation of the Hegelian concept of spirit. Indeed, neither the theory of subjective spirit (and *a fortiori* the initial part of it, called "Anthropology") nor that of objective spirit (which includes the philosophy of history) exhaust the richness of the concept of spirit. Spirit only attains its identity, that is to say, its *Beisichsein* or its freedom, as *absolute* spirit.

Does this mean—and this would justify Löwith's critical interpretation—that Hegel bases himself on a theological definition of spirit? One could be led in such a direction by the vocabulary of revelation (*Offenbarung*) used to define spirit in the *Encyclopedia* (and already to define actuality in the *Science of Logic*). I do not wish to enter into the discussion about the onto-theological character (or onto-theo-teleological character, as Derrida would say) of Hegel's philosophy. But what seems evident to me is that, from his standpoint, only philosophy (and not religion—i.e. religious *representation*) does express the very speculative nature of absolute spirit. Only philosophy, which is the *thinking* of what religion *represents*, can do so:

The word 'spirit' and the *representation* of the spirit have long been discovered, and the content of the Christian religion is making God known as a spirit. Grasping what is *given* to representation ... in its proper element, that is to say, the concept: such is the task of philosophy.

HEGEL 1992, § 384, 383

It could seem that we are here quite far from any philosophy of history. However, Hegel states in the same paragraph that it is solely by considering the absolute as spirit that "world history can be conceived." (Hegel 1992, § 384, 383) Indeed, the philosophy of history cannot adopt a particular point of view, such

14 Hegel 1992, § 383–384, 382–383. Hegel remarks that revelation has three different figures, depending on whether it is an "alienated" revelation of the idea of nature, a self-revelation of the (finite) spirit as different from nature, or a revelation to itself of the absolute spirit grasping "the absolute unity of the being-out-of-itself and of its being-for-itself, of its concept and of its actuality" (Hegel 2011, § 384 Zusatz, 938).

as that of a particular people's mentality (*Volksggeist*). World history, such as conceived of by philosophy and philosophy alone, is the "*exposition and actualization of the universal spirit*." (Hegel 2009, § 342, 274) It can only be *conceived of* from the point of view of that universal spirit or spirit of the world (*Weltgeist*) which is itself, as "externally *universal*" spirit,¹⁵ the intra-worldly figure or the projection of absolute spirit within time. In other words, history, which is the "task" or the "work" of the spirit of the world (Hegel 2009, § 343–344, 274–275), can only be thought from the standpoint of its totality, and not from an ethnocentric perspective (to which Hegel actually seems to tend, as when he writes that "world history goes from the East to the West, because Europe is the end of the world history": Hegel 1955, 243). Hegel's conception of history is thus very radical, and apparently goes in the opposite direction to that adopted by the contemporary historical science, since history can only be thought as a universal history (*Weltgeschichte*), that is to say, in considering it from the standpoint of *Weltgeist*. However, this examination only makes sense in the metahistorical perspective of speculative philosophy, i.e. of a "knowledge of absolute spirit," in which "nature and history exist solely to serve the revelation of that spirit" (Hegel 1992, § 552, 530). It is therefore perfectly coherent that the *Introduction to the lectures on the philosophy of history* ends with a statement according to which the unique object of philosophy, including the philosophy of history, is the present (Hegel 1955, 183). This present is not merely an empirical succession of events, since it consists in the spirit's eternal presence.

4 Conclusion

This essay started out from a commonplace: something like a philosophy of history did exist before the Nineteenth Century and found its systematic expression in the classic German idealist philosophy. However, upon examination, this commonplace proved to be false. Before Kant, the philosophy of history had either the sense of a denunciation of the religious prejudices (for instance with the French Enlightenment philosophers), or, on the contrary, that of a construction opposed to progressive rationalism (Herder, then F. Schlegel and Romanticism). In Kant, there is a dense and original reflection concerning history. However, it does not belong to philosophy's hard kernel, which is metaphysics, but rather to applied philosophy (i.e. anthropology). Finally, if the philosophy of history is an essential part of Hegel's philosophy of

15 Hegel 1992, § 549, 524. On the relation between spirit of the world and absolute spirit, see Hegel 1955, 60.

spirit, its ultimate role is to guarantee the taking up of history and temporality (which belong to the realm of finite spirit) by the atemporal process of the concept. The most structured of the philosophies of history thus proves that it is impossible for philosophy to hold itself to history alone.

This is one of the reasons for which Marx, Hegel's most original disciple, considered that historical materialism should not only break up with the "German ideology" (i.e. with the Young Hegelians' thought), but also with philosophy as such. We might however ask ourselves if Marx did really break up as radically as he tends to say it with the "philosophy of world history". At the very moment at which he claimed to abandon philosophy, Marx still used the idealist concept of *Weltgeschichte*, although the subject of his conception of world history was not the spirit but the proletariat (Marx 1969, 5). Could philosophy of history outlive this materialistic reversal? We could state that, in a certain way, it did, but by radically changing its ground and by becoming a "history of being" (*Seinsgeschichte*). However, this phenomenon is actually, as shown by Heidegger, a denial of philosophy of history, since this philosophy (even in Hegel) was based on a "vulgar" conception of time and historicity (Heidegger 1993, § 82, 428). Indeed, in Heidegger's perspective, the "innate concept of history" is not related to any regional ontology (even to that of the spirit) and must be understood from the standpoint of the concept of *Ereignis*. In such a perspective, we might say that "until now, humanity has never been historical (*geschichtlich*).". Indeed, the history that humanity "had" was merely a *Historie* understood from a metaphysical point of view, whilst the essence of history should be read from "the Being as *Er-eignis*" (Heidegger 2003, § 273, 492–494). In this perspective, the project of a philosophy of history was for Heidegger, as connected to a "vulgar" questioning, flawed as such.

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“Freedom in the European Sense”: Hegel on Action, Heroes, and Europe’s Philosophical Groundwork

Alberto L. Siani

*And the feeling, it gets left behind
All the innocence lost at one time*

PEARL JAM



The starting assumption of this paper is that one of the deepest motives of Hegel’s philosophy lies in the reconstruction of European identity, so much so that one can expect a mutual clarification of the terms “Europe” and “Hegel” through an examination of their connection. Since, however, Hegel’s explicit statements on Europe are few, this assumption can only be indirectly defended. To start, Hegel’s philosophy is a philosophy of human freedom. However, in opposition to Kant and Fichte (or to Hegel’s image of them), Hegel conceives of human freedom concretely, that is, not as a universal principle transcending historical and empirical conditions, but as self-shaping subjectivity (the “Idea”). Actual freedom is always actualized as an empirical form; or better said, it is always concrete (*konkret*, from the Latin *concrecere* meaning “to grow together”) in an empirical form. Freedom, therefore, is always a concretion, a common growth of reason and empirical existence. According to Hegel, freedom finds its most adequate historical configuration in the modern European state. This is not because this state is, as a historical-political reality, wholly rational and divine. Rather, the modern state embodies freedom by grounding itself on the acknowledgement that the human subject is free *as such*, and not as a bearer of particular qualities. This acknowledgement, however, can only be actualized through concrete institutions and social relationships, and only

certain forms can be recognized as adequate embodiments of free subjectivity. Briefly, without these forms there would not be that freedom, and without that freedom there would not be those forms. I take this to be the general meaning of Hegel's notorious *Doppelsatz* on the identity of the actual and the rational. The critical reconstruction, foundation, and legitimation of the actuality of freedom in the forms of modern Europe (not only political, but also religious, social, aesthetic, philosophical, etc.) is then one of the central threads of Hegel's philosophy.

Multiple strategies are possible while approaching the topic of the connection between Europe and freedom in Hegel's philosophy. In this paper, I have deliberately avoided to attempt a definition of the term "Europe," which I kept rather open, historically, geographically, and politically. Instead, I investigate several general conceptual features, which according to Hegel constitute the shared heritage of modern Europe, even though they are actualized in a plurality of historical, geographical, and political shapes. These features are, in my reading, basic but unrevisable starting, rather than concluding, points of European identity. This paper begins by discussing two statements where Hegel advances the idea that subjective or moral freedom, i.e., the right of the particular subject, is characteristic of modern Europe, finding its expression in individual action and imputability. In the second section, I investigate Hegel's genealogical reconstruction of this principle by contrasting the modern European understanding of freedom and action with the substantial one of classical Greece. With the tragic dissolution of the latter at the hands of heroic subjectivity, a path is opened to the former. Finally, I elaborate on the idea that, for Hegel, the modern European understanding of freedom cannot be detached from the primacy of philosophy at the level of absolute spirit, and I highlight some broader implications of this idea for our contemporary world.¹

1 For some preliminary considerations on this topic, see Siani (2014a). For both philosophical and philological reasons, I will not pursue this topic in the framework of Hegel's philosophy of history (on this, see Siep 2010). Further, I will not be dealing with the issue of whether Hegel's understanding of modern Europe can be extended to the contemporary "Western" world nor with the universalizability of his conception more generally. I am of course aware that these are crucial aspects of my topic, but I have preferred to proceed in a hermeneutically focused fashion, avoiding grand openings. For some developments in this sense, and for a broader clarification of the framework in which this chapter is inscribed, I have to refer to Siani (2014b).

1 Europe, Modernity, and the Right of Subjective Freedom

Hegel's most philosophically challenging and at the same time philologically reliable pronouncement about Europe is to be found in an often overlooked remark in the *Encyclopedia*: "It is especially this *subjective* or *moral* freedom that is called freedom in the European sense" (Enc, §503R, 224). This remark is located in the first paragraph of the "Morality" section, i.e. the second section of Objective Spirit. The paragraph begins by articulating the transition from "Abstract Right" to "Morality": "The free individual, who, in (immediate) right, is only a *person*, is now determined as a *subject*,—will reflected into itself, so that the determinacy of the will in general becomes, as embodiment within the will, the will's *own* determinacy, distinct from the embodiment of freedom in an external thing" (Enc, §503, 224). Abstract right is the product of the immediate free will (see Enc, §487), i.e., of the will that abstracts from any and every particularity of content. It is only the abstract, undetermined right to property, i.e., to owning external things (see Enc, §488). At this stage, the will is not reflected—it is identical with abstract right—and there is no distinction between the individual's will and the external embodiment of its freedom. The transition to Morality thematizes the further determination of the free individual no longer as "person," but as "subject." The subject is no longer abstract will, but will determined through its reflection into itself.

Since the determinacy of the will is no longer posited in the external thing as property, but now internally, the universal will of abstract right is fragmented into a multitude of particularities: "Because the determinacy of the will is thus posited *internally*, the will at the same time becomes a *particular* will, and there arise the further particularizations of it and the relations of these to one another" (Enc, §503, 224). The will is now both determined in itself, as the lawful and the ethical, and expresses the particular will, which enters into relationship with the former: "The determinacy of the will is partly the determinacy that is *in itself*, the determinacy of the will's reason, what is lawful (and ethical) in itself; partly it is the embodiment present in the active expression, an embodiment that sets out and comes into relationship with the determinacy" (Enc, §503, 224). Here is where morality comes in: "The subjective will is *morally* free, in so far as these determinations are inwardly *posited as its own* and willed by it" (Enc, §503, 224). Moral freedom hence both is and requires self-determination: if the subject knows and makes the determinations of the will as his own, i.e., as a product of his own will, he is morally free. The expression or externalization of this free will, lastly, is action: "Its active expression with this freedom is *action*, in the externality of which the will only recognizes

as its own, and allows to be imputed to it, what it has willed within itself in full awareness [*was er davon in sich selbst gewußt und gewollt hat*]” (Enc, §503, 224). Action, as an expression of a subject’s moral freedom, implies the subject’s awareness of imputability.

Here enters the remark Hegel makes about Europe that I quoted in the beginning: “It is especially this subjective or moral freedom that is called freedom in the European sense.” He continues:

In virtue of the right of freedom man must specifically possess a knowledge of the difference between good and evil in general; ethical and religious determinations are supposed not to make a claim on him for his compliance only as external laws and regulations of an authority, but to have their approval, recognition, or even justification in his heart, disposition, insight, etc.

Enc, §503R, 224

This requirement is a consequence of the interiorization and fragmentation of the will. Good and evil, as well as ethical and religious norms and values, can no longer be externally given determinations imposing themselves upon passive subjects: they need to be approved and justified in and through the subject’s interiority. Since the subject can only recognize as his own “what it has willed within itself in full awareness,” there can be no imputability on the basis of sheer external authority lacking inner, self-aware approval.² This is an indispensable requirement for the actuality of freedom: “The subjectivity of the will within itself is an end in itself, an absolutely essential moment” (Enc, §503R, 224). Finally, the conclusion of the remark makes clear that “moral” does not mean “morally good,” but “concerning the standpoint of morality”: “*Morality* [*das Moralische*] must be taken in the wider sense in which it does not mean merely the morally *good*. ... Here morality has the meaning of a determinacy of

2 See also the famous passage from the preface to the Rph concerning “the *truth* about *right*, *ethical life*, and the *state*,” which “requires to be *grasped in thought* as well; the content which is already rational in itself must win the form of rationality, so that it may appear justified to free thinking. Such thinking does not stop at the *given*, whether the given be supported by the external positive authority of the state or agreement among people, or by the authority of inward feeling and the heart and by the witness of the spirit which immediately concurs with it. On the contrary, thought which is free starts out from itself and thereupon demands to know itself as united in its innermost being with the truth” (5). As we will see later, however, Hegel claims *only* that laws and institutions have to be justifiable to the individual, not that they only possess validity insofar as they have been factually and definitively justified to the latter.

the will, in so far as it is in the *interior* of the will in general, and thus includes the purpose and the intention, as well as moral evil" (Enc, §503R, 224). In other words, the standpoint of morality means allowing for moral determinations, be they positive or negative: good and evil are both determinations of morality, and moral freedom can result in either of them.

While this brief commentary has offered some context, it has not yet clarified the meaning of Hegel's statement that this subjective or moral freedom is freedom in the distinctively European sense. To this end, I suggest reading this statement together with another remark from the "Morality" section, this time from the *Philosophy of Right*. In §124, Hegel criticizes the "empty" and "abstract" view according to which "objective and subjective ends are mutually exclusive," a view that even becomes "pernicious if it passes into the assertion that because subjective satisfaction is present, as it *always* is when any task is brought to completion, it is what the agent *intended in essence* to secure and that the objective end was in his eyes only a *means* to that" (Rph, §124, 122). Hegel follows this with his famous definition of the "subject": "What the subject *is, is the series of his actions*. If these are a series of worthless productions, then the subjectivity of his willing is just as worthless. But if the series of his deeds is of a substantial nature, then the same is true also of the individual's inner will" (Rph, §124, 122). This definition is meant, in the first place, to counter the abstract view with a concrete one: there is no absolute opposition between subject and object, insofar as each subject is the series of his actions, and each series has a higher or lower level of objective content. If a subject acts in a way devoid of any objective content, the subjective side of his will will be worthless, and vice-versa.

Just as in §503 of the *Encyclopedia*, the remark to §124 of the *Philosophy of Right* quite unexpectedly turns to more far-reaching reflections on the historical-cultural context of this notion of the subject: "The right of the subject's *particularity*, his right to be satisfied, or in other words the right of *subjective freedom*, is the pivot and centre of the difference between *antiquity* and *modern* times. This right in its infinity is given expression in Christianity and it has become the universal effective principle of a new form of the world" (Rph, §124R, 122). The right of subjective freedom permeates every aspect of the modern world:

Amongst the more specific shapes which this right assumes are love, romanticism, the quest for the eternal salvation of the individual, etc.; next come moral convictions and conscience; and, finally, the other forms, some of which come into prominence in what follows as the principle of

civil society and as moments in the constitution of the state, while others appear in the course of history, particularly the history of art, science, and philosophy.

Rph, §124R, 122

These reflections, despite appearing incidental, are perfectly consistent with the theme of the paragraph: they aim at presenting subjective freedom not in terms of an abstract, empty subjectivism, but as a principle already actually embedded in and pervading modern institutions, practices, and self-understanding, and thus anything but empty and ineffective.

As a matter of fact, right after the statement on modernity, Hegel goes back to the more specific theme of the opposition between subjective and objective ends:

Now this principle of particularity is, to be sure, one moment of the antithesis, and in the first place at least it is *just as much* identical with the universal as distinct from it. Abstract reflection, however, fixes this moment in its distinction from and opposition to the universal and so produces a view of morality as nothing but a bitter, unending struggle against one's own satisfaction.

Rph, §124R, 122–123

Thus, the principle of particularity is not to be taken by itself in its abstraction as the highest realization of freedom. In fact, it is so far from being a stand-alone abstraction that it is actually identical with the universal, despite being distinct from it (like in the famous Hegelian example: the tree both is and is not the seed). However, the principle of particularity or subjective freedom is often taken to be absolutely opposed to universal and objective ends. This view, which we may call a caricatured Kantianism, conceives morality as something thoroughly subject-based, irremediably distinct from the universal. Accordingly, in the Kantian picture, subjective and objective ends are mutually exclusive, and morality takes the form of an unending and ultimately fruitless struggle against individual satisfaction.

Both remarks I have commented on address the same topic, namely, the structural link of morality/subjective freedom and Europe/modernity. Taken together, as they should be, the two remarks connect a relatively specific geographical-historical-cultural realm (modern Europe) with a specific understanding of freedom as freedom of the subject, the right of particularity, and moral freedom. It is important to stress that, in doing so, Hegel is not praising this understanding of freedom as the highest or absolute form of freedom. In fact, as it is well-known, morality is the target of an almost devastating critique

in the *Philosophy of Right*. Given the tight link instituted by Hegel between moral or subjective freedom and modern Europe, one needs to make sense of Hegel's attitude toward morality. The first aspect to notice may be Hegel's apparent ambivalence toward morality. Not only action as such can be good or evil, but morality itself, i.e., the very distinguishing trait of modern Europe, is at the same time "essential" and potentially "pernicious." A second, related aspect to be noticed is Hegel's insistence on the expression "standpoint [*Standpunkt*]." While morality is an essential moment, hypostatizing or absolutizing the moral standpoint is pernicious. In other words, while morality is essential insofar as it expresses the difference between subject and object, and thus gives voice to subjective freedom and the right of particularity, it becomes pernicious when it envisages this difference as absolute, placing the whole groundwork of freedom and moral value in the interiority of the subject as opposed to the collective institutions of the objective world.³ This "isolation" of the standpoint of morality leads to the perverted and deranged figures Hegel criticizes in the "Morality" chapter. This chapter, accordingly, has the double aim of stating the essential value of morality, while at the same time denouncing the formidable danger implicit in its absolutization.

There is, however, an even deeper layer of ambivalence to the standpoint of morality. Morality states the essential, history-changing principle of subjective freedom, and it is, at the same time, the biggest threat to this principle. This is because morality *has* to state the difference between subject and object in order to affirm the freedom of the former, but if this difference is absolutized, subjective freedom can never bridge the gap to objectivity, and hence becomes utterly ineffective and empty. This is why for Hegel subjective freedom takes the form of "action," which consists in the transfer of subjective ends into the objectivity of the actual world. Subjective freedom is only actual if the gap between subject and object can be bridged. This brings into view how morality puts forward an essential principle which, however, cannot be defended and actualized on the very ground of morality. This calls for a different standpoint: that of ethical life, in which morality has its truth.⁴ It may seem natural to understand ethical life, with its three institutional moments of family, civil society, and state, as the sphere of objectivity, triumphing over and subduing individual morality. This is, however, still an abstract and unilateral understanding of ethical life. In fact, morality and ethical life do not designate different areas of reality or different sets of values: they are different standpoints on

3 The moral standpoint taken by itself generates a series of dualisms that cannot be reconciled on its own grounds (cf. e.g. Menegoni 2005, 132).

4 See e.g. Rph, §141, 152: "The *concrete* identity of the good with the subjective will, an identity which is therefore the truth of them, is *ethical life*."

the same reality.⁵ The objective world is one and the same product of the will, and morality and ethical life are two different ways of relating to it. If we were to consider ethical life as a piece of reality opposed to, historically more advanced than, and triumphing over morality, we would simply be understanding it from the abstract standpoint of morality, and therefore repeating rather than transcending it.

Ethical life is the standpoint of actualized freedom, because it represents the fulfillment of the essential and legitimate demand of the point of view of subjective freedom, i.e. of morality. Subjective freedom refusing the possibility of objectivity remains ineffective and possibly evil; subjective freedom accepting the possibility of objectivity (i.e., moral freedom overcoming the standpoint of morality) is ethical life:

The objective ethical order, which comes on the scene in place of good in the abstract, is substance made *concrete* by subjectivity as *infinite form*. Hence it posits within itself *distinctions* whose specific character is thereby determined by the concept, and which endow the ethical order with a stable *content* which is necessary for itself and whose existence is exalted above subjective opinion and caprice. These distinctions are *laws and institutions that have being in and for themselves*.

Rph, §144, 154

Ethical life is, hence, a product of the same subjective freedom which, in the standpoint of morality, styles itself in an abstract, self-sufficient, and hence empty and ineffective way. Hegel criticizes this self-stylization, not subjective freedom. For Hegel, in fact, modern European societies represent a higher form of actualization of freedom than societies that are not built on the groundwork of subjective freedom.⁶ In the next section, I will investigate the reasons for this superiority.

2 The Tragic Genealogy of Subjective Freedom

Why is morality, despite its ambiguity and volatility, “an absolutely essential moment”? Or, in other words, what is so essential in the right of subjective

⁵ “The superiority of ethical life over morality is not a difference between value priorities, but a difference between abstract and concrete ways of viewing the same reality” (Wood 2005, 154).

⁶ “Modern ethical life is the highest form of the ethical not by excluding morality, but on the contrary, only because it includes morality as an independent and essential moment” (Wood 2005, 153).

freedom as the principle of modernity? Since subjective freedom and the right of particularity are peculiar aspects of modern Europe, we should ask how ethical life looks without them. In order to address this point, it is necessary to take a step back. If morality, as we saw, structurally requires ethical life as its truth and actuality, the opposite does not hold: there can very well be actual ethical life without subjective morality. Without the principle of subjectivity, freedom takes a substantial form: the individual is not free *qua* human subject, but *qua* member/citizen of an ethical substance, meaning that their freedom is grounded in naturalistic determinations (familial origin, ethnicity, gender, etc.). This is the case, most emblematically for Hegel, in classical Greek ethical life, which takes the structure of an ethically compact community wherein objective forms and values do not go through the test of subjective reflection and approval, but are the very substance of the individual. Between each individual and the shared ethical substance there is a relationship of immediate, unreflected, and harmonic recognition. When ethical conflicts begin to unsettle this immediate, unmoved harmony, they take the form of the tragic, remove, most notably represented in Sophocles' *Antigone*, or, outside of the theatre, in Socrates. Through tragic action, the collapse of the Greek world is announced, and the road to the modern principle of subjective freedom is opened. The latter, though "given expression in Christianity," is the result of a long and complex genesis that can be traced back to the Greek world (cf. Siani 2013). Socrates is executed by the Athenians because he upholds and represents the principle of subjectivity, the right of the particular to reflect upon, inquire into, and even question the shared ethical substance instead of remaining content with the immediate, posited, unreflected harmony between them. By upholding this principle, Socrates directly threatens the stability and ultimately the very existence of the polis, which, being founded on an immediate recognition and identification of individuals with the ethical substance, cannot survive the process of reflective particularization and fragmentation initiated by tragedy and brought forward by philosophy. Socrates hence is both innocent, insofar as his aim is not the destruction of the polis per se, but the advancement of freedom, and guilty, because his questioning results in the death of the polis.⁷ Equally, the Athenians executing him are both innocent, insofar as they are acting for the sake of the polis, and guilty, because the principle they blame on Socrates has already irreversibly taken root in the polis itself.

Antigone constitutes the very groundwork of Hegel's understanding, one may say, of action before action, i.e., of action in a context lacking the conditions for real action. In this sense, Hegel's interpretation of Sophocles' tragedy

7 The classical community, for Hegel, cannot bear, and is ultimately destroyed by, "the independent development of particularity" (Rph, §185R, 182).

is probably the most relevant locus for the topic of this paragraph.⁸ In the first section of the “Spirit” chapter in the *Phenomenology of Spirit*, Hegel describes the core of Greek ethical life as follows: “Spirit, being the *substance* and the universal, self-identical, and abiding essence, is the unmoved solid *ground* and *starting-point* for the doing of all [*des Tuns Aller*], and it is their *purpose* and *goal*, the *in-itself* of every self-consciousness expressed in thought” (PhG, 239, 264; translation slightly modified). In this context, the process of differentiation and individuation that we have seen as necessary for the actualization of freedom is not yet present, neither in objective reality nor in the self-consciousness of individuals. Everything is still grounded in, and aiming at, the universal, unmoved, unreflected, and hence harmonic ethical substance. Spirit as substance, however, “must advance to the consciousness of what it is immediately, must leave behind it the beauty of ethical life, and by passing through a series of shapes attain to a knowledge of itself” (PhG, 240, 265). Substance “splits itself up into distinct ethical substances, into a human and a divine law” (PhG, 241, 266). This happens through action: “Spirit is, in its simple truth, consciousness, and forces its moments apart. *Action* [*Handlung*] divides it into substance, and consciousness of the substance; and divides the substance as well as consciousness” (PhG, 240, 266). This is what Hegel calls “ethical action [*sittliche Handlung*]” (PhG, 251, 279).

Since individual self-consciousness is identical and in unity with substance, there is no acting subject in the ordinary modern sense. Action is taken up by heroic individuals, who become unilateral bearers and actors of one of the opposed laws without at first acknowledging the right of the other, since their starting point is the compact, harmonic ethical substance. Thus, the hero “is not *this particular individual* who acts and is guilty; for as *this* self he is only the unreal shadow, or he exists merely as a universal self, and individuality is purely *the formal* moment of *doing* as such [*des Tuns überhaupt*], the content being the laws and customs which, for the individual, are those of his class” (PhG, 254, 282–283, translation slightly modified).⁹ While acting, the hero is not yet an individual subject claiming his own right as such. His self-consciousness is not distinct from the ethical whole, but finds itself in immediate, confident unity with it:

8 For a detailed discussion see also Stegemann (2001) and for an actualizing reading of Hegel’s interpretation of *Antigone* Siani (2018).

9 Even though heroes are of both sexes, and in fact Antigone, not Creon, is the main character, for the sake of simplicity I will follow the translator of the *Phenomenology* in using only the grammatical masculine gender.

Self-consciousness within the nation descends from the universal only as far down as mere particularity, and not down to the single individuality which posits an exclusive self, an actual existence which in its doing is negative towards itself. On the contrary, its action rests on secure confidence in the whole, unmixed with any alien element, neither with fear nor hostility.

PhG, 254, 283; translation slightly modified

While acting, the hero is trying to actualize an ethical principle or law as universal, since the basis of his action is still the undivided substance. However, through this very acting, he violates the opposite principle, thus committing crime: "As regards content, however, the ethical *action* contains the moment of crime, because it ..., being an *undivided* attitude towards the law, remains within the sphere of *natural immediacy*, and, *qua* action, turns this one-sidedness into guilt by seizing on only one side of the essence, and adopting a negative attitude towards the other, i.e. violating it." (PhG, 254, 282). Whichever side chosen, the hero has no criminal intent motivating his action. The hero is, as we saw, thoroughly confident "in the whole" and fearless.

He learns at his own expense, however, that what he did was everything but an obvious, unimpeachable pursuit of a transparent, undivided justice:

Ethical self-consciousness now learns from its deed the developed nature of what it *actually* did [*Die entwickelte Natur des wirklichen Handelns*], as much when it obeyed divine law as when it followed human law. The law that is manifest to it is linked in the essence with its opposite; the essence is the unity of both; but the deed has only carried out one law in contrast to the other. But the two laws being linked in the essence, the fulfillment of the one evokes the other and the deed having made it so-calls it forth as a violated and now hostile entity demanding revenge.

PhG, 255, 283

Given that the hero performed the deed with an ethical aim and not with a criminal one, he is forced to recognize his guilt to the fullest extent of its (unintended) consequences, namely the fragmentation of the ethical whole into opposed, inimical forces: "The ethical consciousness must, on account of this actuality and on account of its deed, acknowledge its opposite as its own actuality, must acknowledge its guilt. *Because we suffer we acknowledge we have erred*" (PhG, 255, 284).

The conclusion and the core of tragedy is the recognition of the right of the opposed law and the overcoming of unilateralism. The substantial end is preserved and receives justification, though no longer as a harmonious and

absolute whole. To this aim, the sacrifice of the acting individual is necessary, though not inevitably as physical sacrifice, like in the exemplary case of Antigone. The reconciliation is not accomplished through the intention of individual actors, but by a superior and annihilating force, namely destiny: "Only in the downfall of both sides alike is absolute right accomplished, and the ethical substance as the negative power which engulfs both sides, that is, omnipotent and righteous *Destiny*, steps on the scene" (PhG, 256, 285). Through destiny, justice comes in as the affirmation of the right of both ethical laws. Justice is, however, still the product of an irresistible necessity, not yet of human freedom. Heroes are not judged and punished according to a system of justice taking into account their intentions and self-consciousness as the ground of their responsibility. None of the violated parties asks for a reestablishment of their right: they rather demand revenge. In fact, one should not even speak of "right," as this is "the existence of the absolute concept or of self-conscious freedom" (Rph, §30, 47), which is not yet present. Even more: strictly speaking, the hero is not yet an individual self, but only a partially aware bearer of a particular ethical force.

Since, however, properly speaking it is only the concrete individual subject who can perform an action,¹⁰ the implication is that what the tragic hero performs is not authentic, actual action: "Only with the externalization of the moral will do we come to *action*" (Rph, §113R, 114). More precisely,

the self-consciousness of *heroes* (like that of Oedipus and others in Greek tragedy) had not advanced out of its primitive simplicity either to reflection on the distinction between *deed* and *action* [*Tat* und *Handlung*], between the external event and the purpose and knowledge of the circumstances, or to the subdivision of consequences. On the contrary, they accepted responsibility for the whole compass of the deed.

Rph, §118R, 118

In heroic self-consciousness, the difference between deed (*Tat*) and action (*Handlung*) is not yet developed. This is the central point. While the term "deed" covers the objective side of an act, that which the agent objectively caused, "action" refers to the agent's inner perspective on his deed as the realization of his intention:

The will's *right*, however, is to recognize as its *action* [*Handlung*], and to accept *responsibility* [*Schuld*] for, only those presuppositions of the *deed*

¹⁰ "Only the concrete individual can act" (Ä 1823 96).

[*Tat*] of which it was conscious in its aim, those aspects of the deed which were contained in its *purpose*. The deed can be imputed to me only if my will is responsible for it—this is the *right to know* [*das Recht des Wissens*].

Rph, §117, 116¹¹

The absence of a distinction between action and deed results in the classical understanding of guilt as different from and inadequate to our modern one. As it is the case for both Socrates and Antigone, “heroes are both guilty and innocent. We [moderns, A.L.S.] think that there is guilt if the individual had the possibility of choosing, if he decided arbitrarily. But in the plastic figures this choice is removed, the individual is what it is, he acts on the basis of this character, of this pathos, and it is this character, because it is just this pathos” (Ä, 1823 305). Accordingly, “our conception of guilt does not apply” (Ä, 1823 305): for us, innocence is a moral good and guilt is evil. On the contrary, “the worst thing one could say about such a hero is that he lived innocently” (Ä, 1823 305). The classic hero cannot be innocent: if he was, it would mean he never lived—his innocence would be innocence as “merely non-action, like the mere being of a stone, not even that of a child” (PhG, 254, 282). Guilt, on the other hand, is the evidence of the hero fully acting according to what he really is, without second thoughts and self-justifications.

The unilateralism for which the hero is punished is not, in fact, the outcome of a self-aware, reflected choice, but rests in the very nature of heroes, which is at the same time the ground of their strength: “This is the strength of ancient characters: they do not choose, but rather, they are what they do”, and “the unity of their subjectivity and substantiality inspires awe” (Ä, 1823 305). On the contrary, “weakness consists in this, that my subjectivity is separated from my will. The greatest weakness is indecisiveness. It is necessary that the decision be not arbitrary, that the bond between will and subjectivity be not dissoluble” (Ä, 1823 305). Hegel here opposes the strength of ancient heroes to

11 Admittedly, this topic deserves a deeper investigation. Given the topic and space constraints, however, I limit myself to aspects excellently captured by Quante (2004, 106): “To describe an event as ‘deed’ means to assume the involvement of the will in the narrow sense—to grasp it as voluntary—without, though, assuming in the description the perspective of the agent on his own act. To describe an event as ‘action’ means, on the contrary, just this: assuming the perspective of the agent himself, comprehending the event not only implicitly as voluntary and intentional, but also understanding it as the realization of the agent’s intention,” and by Sandis (2010, 46): “Hegel’s solution famously offers two aspects of any given act: *Tat* (deed) corresponding to the objective (which I am causally responsible for), and *Handlung* (action) corresponding to the subjective (which can be morally imputed to me); rights relating to the latter in turn dividing into one relating to various elements of the self such as knowledge, intention, and purpose.”

the weakness of the modern subject. In the latter, subjectivity and will are not identical, but rather stand in a reflective relationship: the subject can always choose differently and arbitrarily. This is his weakness, as it leads to indecisiveness, second thoughts, priority conflicts, and possibly evil. The classical hero is, by contrast, “strong” and “plastic.” His subjectivity is not separated from his will. He cannot arbitrarily choose contents that are different from his “character,” i.e., his “pathos,” since he is nothing more than an “individualized” appearance of a given ethical power (cf. also PhG, 256, 284). The classical hero is an immediate unity of subjectivity and substance, whereas, in the modern individual, subjectivity and substance are separated, and this separation is, as we saw, the very essence of moral freedom.

Once again, Hegel’s stance on the moral standpoint is multi-faceted. “Strength” and “weakness” are here used in an aesthetic context: clearly, the plastic tragic hero is a much more powerful character than the wavering modern agent. It is nevertheless likewise clear that, from the point of view of the actualization of freedom, the latter represents a much more advanced condition than the former. From the point of view of modern European morality, the hero does not really have the possibility of choosing, since both the grounds and the consequences of his action are to a large extent unknown to him.¹² In fact, he is judged and condemned according to a principle of individual responsibility that does not even exist prior to and independently of his action. Thus, we speak of heroic action, of the resulting conflict, and of ensuing justice as destiny in tragic, not rational terms. The tragic terms, however, are insufficient for our moral understanding, insofar as they violate the right of subjective will, and more precisely what Hegel defines as “the *right to know*.” In the next, concluding section I will return to “freedom in the European sense” to more closely investigate its connection with knowledge, subjective morality, and the overcoming of the tragic model.

3 Philosophy, the End of Art, and “Freedom in the European Sense”

It should be clear by now why “the subjective, *moral* quality of crime rests on the higher distinction implied in the question how far an event or deed is at all an action, and concerns the subjective character of the action itself” (Rph, §96R, 100). The characteristic feature of “freedom in the European sense” is, as we saw, the right of the moral subject. Now we know that this right takes form

¹² In this regard, Hegel also famously refers to Oedipus’ lack of awareness.

in the capacity to distinguish between deed and action, and in the imputability of the latter. We can further substantiate this point:

The *right of the subjective will* is that whatever it is to recognize as valid shall *be seen by it as good*, and that an action, as its aim entering upon external objectivity, shall be imputed to it as right or wrong, good or evil, legal or illegal, in accordance with its *knowledge* of the value which the action has in this objectivity.

Rph, §132, 127

What stands out in this passage (and in several others), and what is at the same time the central turning point of the discourse here, is the massive presence of terms expressing Hegel's cognitivist understanding of the nature of action in the modern sense.¹³ The right of subjective freedom has to do with recognition (*anerkennen*), insight (*einsehen*), and knowledge (*Kenntnis*). Furthermore, "the *good* is in general the essence of the will in its *substantiality* and *universality*, i.e. of the will in its truth, and therefore it exists simply and solely *in thinking* and *by means of thinking* [*nur im Denken und durch das Denken*]. Hence assertions such as "humanity cannot know the truth but has to do only with phenomena," or "thinking injures the good will," are assertions depriving spirit not only of intellectual but also of all ethical worth and dignity" (Rph, §132R, 127).

Both the powers and limits of this "highest right of the subject" are determined on a cognitivist basis:

The right of giving recognition only to what my insight sees as rational is the highest right of the subject, although owing to its subjective character it remains a *formal* right; against it the right which *reason* qua the objective [*das Recht des Vernünftigen als des Objektiven*] possesses over the subject remains firmly established. On account of its formal character, insight is capable equally of being *true* and of being mere *opinion* and *error*.

Rph, §132R, 127–128

13 I employ the term "cognitivism" following the proposal of "Hegel's cognitivist ascriptivism" advanced among others in Quante (2011, 224–225): "Hegel unequivocally clarifies in his philosophy of right that he supports a cognitivist analysis of our evaluative and normative practices. Practical reason is grounded on insight and knowledge, not on a groundwork of feeling and opinions" (my translation). Clearly, there are different levels and forms of this cognitivist blueprint, but this is not strictly relevant to my argument here.

Since the right of the subject revolves around knowledge, and subjective insight can be either true or wrong, objectivity, *insofar as it is rational*, maintains its full right against subjective formalism. The formal character of the right of the subject means *only* that subjective insight is the form through which the rationality of external content is to be evaluated.¹⁴ This does not necessarily imply that the individual subject is as such always able to perform this evaluation: one could say that the form of subjective evaluation does not necessarily and *eo ipso* reflect the rationality of objectivity:

The individual's acquisition of this right of insight is, from the standpoint of what is still the moral sphere, part and parcel of his particular subjective education [*Bildung*]. I may demand from myself, and regard it as one of my subjective rights, that my insight into an obligation shall be based on *good* reasons, that I shall be *convinced* of the obligation and even that I shall apprehend it from its concept and fundamental nature. But whatever I may demand for the satisfaction of my conviction that an action is good, permitted, or forbidden, and so in this respect imputable, this in no way detracts from the *right of objectivity*.

Rph, §132R, 128

Just like morality and ethical life, the right of the subject and the right of objectivity are not structurally opposed, but are rather opposite sides of the same coin, which is the actualization of freedom. This separation into two sides is necessary for distinguishing action from deed. While this creates a tension that becomes a structural, ineliminable feature of modern European society,¹⁵ it is just as clear that for Hegel it opens up the practical as well as philosophical challenge of reconciliation.¹⁶

Full-fledged reconciliation must proceed through knowledge rather than destiny: the classical hero can accept punishment for an action the conditions and consequences of which are to a large extent unknown to him, but this

14 "Actions, in contrast to mere behavior, are connected to a claim to rationality that can be justified or called into question" (Quante 2010, 540).

15 The counter-paradigm is represented, as we saw, by a substantial ethical life, in which morality is not developed to a standpoint on objectivity, and in which moral values and political forms are established independently of the subject's insight and recognition.

16 One could even say that subjective freedom and reconciliation are the two essential poles of European modernity, and philosophy is charged with the task of connecting them in a dynamic, ever-changing fashion. Rózsa (2001, 31) remarks that "Hegel saw reconciliation as the fundamental determination of European culture" (my translation). For more on Hegel and reconciliation in general see Hardimon (1994).

cannot be the case for the modern subject. Objective ethical contents can no longer be present just in the immediate, intuitive, “aesthetic” form of the “*pathos*” in the individual, and justice can no longer take the form of destiny. Correspondingly, no institution or authority is legitimate if it is positively imposed on subjects, programmatically disregarding their moral insight. Imputability presupposes, at least in principle, knowledge of “the developed nature” of action. This does not just apply to individual action, but to all the relationships of modern European society as a whole. Hegel, among others, famously opposes the rational, knowledge-based modern state not only to the classical, “tragic” polis, but even to the Christian Church, despite the fact that Christianity gave expression to the right of subjective freedom:

The state is universal in form, a form whose essential principle is thought. This explains why it was *in the state that freedom of thought and science* had their origin. It was a church, on the other hand, which burnt *Gior-dano Bruno*, forced *Galileo* to recant on his knees his *exposition* of the *Copernican* view of the solar system, and so forth. *Science* too, therefore, has its place on the side of the state since it has one element, its form, in common with the state, and its aim is *knowledge*, knowledge of *objective* truth and rationality in terms of thought.

Rph, §270R, 251–252

The conclusion I am hinting at is the following: if the characterizing feature of modern European society is “freedom in the European sense,” then the corollary requirement is the discursive-rational character of modern European cultural forms and practices of self-understanding, recognition, and orientation, i.e., what Hegel calls “absolute spirit.” Absolute spirit is the systematic locus where subjective and objective spirit are brought together (see Enc, §§553–555). This also implies that the forms of absolute spirit (art, revealed religion, and philosophy) can be seen as cultural-reflective practices through which the subject is reconciled with his objective world. In this sense, absolute spirit is just as much a part of the historical world as subjective and objective spirit.

As is well-known, philosophy is for Hegel the highest form of absolute spirit. The primacy of philosophy is not an unwarranted metaphysical speculation, but emerges from historical reflection. The other forms, art and revealed religion, were adequate to previous historical epochs. Art was the adequate spiritual form for the ethical life of classical Greece, and revealed religion was the adequate spiritual form of the European world in the Middle Ages, up to the Enlightenment and the French Revolution. In modernity, they can still play a role in the spiritual life of society and for the *Bildung* of the individual, but

only a partial one, subordinate to philosophy. Hegel's thesis of the "end of art," or more precisely of its "past character," is an essential, non-reversible piece of his understanding of European modernity, and it can be extended, though of course with qualifications, to religion as well.¹⁷ Only philosophy can adequately take up the arduous challenge of reconciling the right of the subject with the right of objectivity, since non-philosophical forms cannot fully stand up to Hegel's cognitivist criterion. Put otherwise: if I recognize my objective world (institutions, norms, laws, customs, and so on) as "rational" (that is, as philosophically meaningful and justifiable), then that objectivity can and should be understood as a product of my own freedom and rational will. On the contrary, a justification and foundation through art or religion will always rely, at some point, on some given fact (the collective aesthetic or mythological substance, or a religious story as revealed in a sacred text) not fully penetrable to knowledge, and hence limiting freedom. Insofar as, based on the argument developed here, they cannot fully account for the subject's rightful claim to knowledge-based insight, only philosophy can count as adequately reflecting the actuality of freedom.¹⁸

The reconciliatory task of philosophy is not limited to this. Based on the same criteria only philosophy for Hegel can reconcile the various dualisms of modern consciousness: substance and subject, actual and rational, theoretical and practical reason, being and thought, etc. The point is, ultimately, that all dualisms can and have to be philosophically reconciled from within the subject's rightful claim to knowledge-based insight. Any purportedly irreconcilable dualism, in fact, poses a limit to this right.¹⁹ The subject's right pervades, as we saw, the modern European world, resulting, among others, in the primacy

17 On the broad ethico-political implications and non-reversibility of the end of art thesis see, among others, Siani (2012b, 2017) and also Früchtel (2001).

18 Clearly, I am not simply arguing for an unqualified reprisal of Hegel's thesis of the primacy of philosophy. The contemporary understanding of the nature and function of philosophy is different from Hegel's and is more differentiated within itself. A more comprehensive discussion of this topic should account for these differences. However, I take the Hegelian thesis to be a necessary, non-revisable starting point for dealing with this process of differentiation without jeopardizing the principle of subjective freedom.

19 In the Preface to the *Phenomenology*, among others, Hegel develops in a "democratic" sense the relationship between philosophy in its scientific form and individual self-consciousness. While the former demands that the latter elevates itself to it, the latter has "the right to demand that Science should at least provide him with the ladder to this standpoint" (PhG, 23, 14). In fact, the reconciliation needs to take place from both sides, and without it there is no "actual science."

of philosophy over other spiritual forms.²⁰ Thus, the grounding function of the principle of subjective freedom and the primacy of philosophy belong together in modern Europe. Institutional forms (whether ancient or contemporary) that revolve around the primacy of artistic, mythological, religious forms, are, from the point of view of freedom in the European sense, inadequate. This, obviously, does not mean that contemporary European institutional forms as such are fully adequate, but, on the contrary, that they can and should be criticized and reformed following the moral compass of the right of subjective freedom together with the implications I attempted to highlight here. The modern rational state with its institutions as described by Hegel marks a point of no return, but not the final stage of history.²¹

We should always bear in mind, however, that the right of subjective freedom can take two forms: the empty, formalistic opposition of individual morality to objectivity, or the freedom-actualizing reconciliation with objectivity. The second form is predicated on the subject's knowledge of the grounds and implications of his actions in the objective world. Only as based on this knowledge is it possible to have a relationship between subject and object that escapes both extremes of empty moralistic formalism on the one hand and of unqualified acquiescence to given objective existence on the other.²² Ethical life is hence the actuality and the substance of subjective freedom, not its obliteration (cf. Rph, §144). A knowledge-based, philosophically reconstructible ethical life is the domain where the right of the subject and the right of objectivity become one, although always in a mediated, revisable fashion. Here the action of the subject is no longer a pure matter of form, but the actualization of freedom filled with content and responsibility. Here the subject regains his entirety and substantiality, admittedly in a way that is not identical with the beautiful plasticity of the tragic hero, but much more valuable in spite of that, since filled with moral autonomy. On the basis of the right of subjective freedom, a full reconciliation with ethical substance is only possible through knowledge.

20 "It is a great obstinacy, the obstinacy which does honour to humanity, to refuse to recognize in one's disposition anything not justified by thought. This obstinacy is the characteristic of modern times, besides being the distinctive principle of Protestantism" (Rph, Vorrede, 15–16).

21 "Hegel is therefore claiming at most that the modern state is *fundamentally* rational (rational to the extent that it is *actual*), not that it is immune to rational criticism or exempt from practical reform" (Wood 2005, 155).

22 As Rózsa (2001, 41) opportunely clarifies, reconciliation between individuals and public institutions does not merely require "the institutionalization of individuals," but "needs to be secured from both sides" (my translation).

Clearly, this knowledge-based reconciliation is an extremely difficult and always precarious achievement, even more so as both the grounds and the implications of subjective action are not only always changing, but are also becoming increasingly far-reaching and difficult to assess under contemporary conditions. The web of grounds and implications a contemporary subject faces in his actions involves dimensions that were only embryonic or simply unknown in Hegel's time: the idea of universal human rights, technological and environmental responsibility, duties toward next generations, just to name a few. Challenged with ever-increasing complexities, we may be tempted to escape them by resorting to apparently easier, more attractive models, implicitly denying the primacy of philosophically substantiated thought in favor of apparently less demanding forms, be they religious, aesthetic, mythological, nationalistic, etc.²³ We may deem this temptation "populistic," taken in the broad sense. While they may appear to be aimed at the emancipation of the individual and of society from the hard, prosaic labor of the concept, populist attempts to revise the uncompromising cognitivist background of subjective freedom ultimately threaten the right of knowledge and the modern European understanding of individual responsibility and guilt. However powerful and understandable, this temptation needs to be resisted if the highest right of the subject is to be safeguarded. This does not only concern individual subjects, but the state as a whole, insofar as for Hegel the state is an action-capable subject (Menegoni 2005, 131, fn. 6). The right of subjective freedom is at the same time the weakness and the strength not only of the individual subject, but also of the modern European world as a whole. Both are "weaker," more divided, more undecided than their substantial, ethically compact counterparts, whether ancient or contemporary. And both, on the same grounds, are more permeable to criticism and progressive change, more pluralistic, more respectful of the individual subject, and more dependent on his capacity for insight and responsible action.

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²³ This "temptation" has benefitted from massively influential, full-fledged philosophical pleas for a renewed veritative, "absolute" role for art, such as Heidegger's turn away from discursive, rational argumentation in favor of poetry. For a critical reading of this turn, see Siani (2012a).

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